931

0003609

Digitized with financial assistance from
Shri Brihad Bhartiya Samaj
on 31 October, 2019

THE NEW EMPIRE

REFLECTIONS

UPON

ITS ORIGIN AND CONSTITUTION

AND

ITS RELATION TO THE GREAT REPUBLIC

36091 ac

BY

O. A. HOWLAND

OF OSGOODE HALL, BARRISTER-AT-LAW

TT-0-1

LONDON

EDWARD ARNOLD

37 BEDFORD STREET, STRAND

TORONTO: HART & COMPANY

1891

INTRODUCTION

The Author's justification for inflicting another book upon an overburdened world will not be found in any novel researches into the sources of history; nor in any absolute originality in the views that he endeavors to state, regarding the place of Canada among the English nations, the Constitution and future of the Empire, or the interests of the whole English-speaking world.

The very contrary is the only merit he can claim for this little work. He believes that he is merely giving expression to thoughts that are in many minds, if not on many lips. He will have reason to be well satisfied if it shall prove that he has succeeded in giving, even in a rude and incomplete manner, a tangible summary of the more or less floating convictions that prevail among his countrymen.

Some portion of the views here embodied were first sketched in the columns of the Toronto "Week," and the Author was as much encouraged as surprised by the expressions of concurrence which reached him privately from many Canadian public men. While this work was passing through the Press he has had the advantage of hearing some of its ground touched upon,

in public addresses, by so learned an authority on constitutional law as Dr. Bourinot, and by so esteemed an exponent of Canadian thought as the Rev. Principal Grant. It was with very great satisfaction that he found that some parts of his line of thought, when they appeared, would almost repeat what he then heard.

Some of his views may be found in disagreement with those maintained by the party of earnest and patriotic gentlemen who form the Imperial Federation League. The services of that Association, in awakening and organizing a sentiment of Imperial loyalty, should never be forgotten. In the principles laid down in a published address of one of the most eminent among their number in Canada, the founder and president of the Ottawa branch of the League, the Author has some warrant for believing that whatever differences may be found between his views and those of that body are not on any radical points of principle. They are in respect of means, rather than of substantial ends.

The Author would regret, even more deeply, the establishment of any irreconcilable difference between his opinions and those of one who deservedly bears the pre-eminent name in Canadian literature.

The youth of Canada of the present generation, it is to be hoped, will never forget the debt of gratitude it owes to that distinguished scholar, and philosophical Historian, who has devoted the ripest years of his

thoughtful life to the service of Canada. Nothing could be more unjust or more inappropriate than the reproach cast at Mr. Goldwin Smith, in answer to some of his recent utterances, that he is "not a Canadian."

I am unable to understand how the title of Canadian can be denied to a British subject, a twenty years' resident of Canada; one who has constantly shown a sincere interest in the young life and for the well-being of the Country he has made his chosen home. However severe his criticisms, or gloomy his forecasts, he has been one of the influences that have helped to build up a character, and hence to ensure a future, for the people of Canada. The record of his work is the converse of that of our most successful practical politician, Sir John Macdonald. The latter has always been just sufficiently in advance of public opinion to be its standard bearer. He has been almost invariably successful in carrying out a policy which has been approved by the country; but often it has been by means which have been questionable, and of perilous tendency as regards the character of the people. On the other hand, if Mr. Goldwin Smith has rarely carried the people with him, in any specific course he has advocated, yet men are still walking in the daylight of higher motive that he laboured (in the beginning almost single-handed) to scatter upon the gloomy surface of party morality.

Nevertheless, there is a difference between an ob-

server like Mr. Goldwin Smith and the *natives* of the country.

Without assent, if without disrespect, they listen while he prophecies, and almost recommends, the extinction of their separate nationality. His is the cool, observant attitude of an historical scholar—never far from that of a foreigner. Apprehending, with a philosophical eye, all the geographical, climatic and racial difficulties of the situation, he does not take sufficient account of a certain unknown quantity, which often illogically defeats the best-reasoned predictions. The human Will, which makes and unmakes the fortunes of men, also interferes with the courses of Nations. "Impregnable fortresses" have been taken. Every day, "inaccessible" regions are being penetrated. Had events always observed the rules of probability, upon which a future is denied to Canada, Hannibal could never have crossed the Alps, England could not have defeated the Armada, Wolfe would not have mastered Quebec, nor Clive have founded the British Empire in India. There is a force—the people's autochthonous pride and faith in their own country—which often has overcome, and may overcome again, very great impediments of geography and situation. The obstacles that beset a country are not absolute, but relative; the only real measure of them is the spirit of the inhabitants. Canadians are shewing no readiness to surrender to invincible Fate; and they protest against conclusions, which imply that the Future

will find them (as the Past has not), a helpless body, passively shepherded by circumstances, without any directing energy of their own.

The widely different prediction of an early native writer seems the more likely to be fulfilled. "The St. Lawrence," wrote Bouchette in 1832, "presents to our mind the trunk of a tree that has no necessary affinity with the United States, and seems destined to bear different fruit. It is the prop of a new nation, the avenue to an independent Empire; the great highway of a rival, not a dependency."*

One may hold these views without any quarrel with that exalted, ideal patriotism, which Mr. Goldwin Smith is known to entertain. He finds a country wherever men of English race have made a home, and planted their institutions. The author differs not with those aims, but as to the means of promoting them. He believes in *minimizing the effect* of our International divisions, rather than in *abolishing* them. These pages will be found to have been written under the conviction that Nations will be better, (as men in society are better,) by learning to recognize, to respect, and even to *prize* the individuality of their neighbors. Would it be wise of Freedom, while the course before her is yet so ill charted, to intrust so many of her treasures to one vessel?

The present year appears to be an extremely appropriate moment for reviewing the position which Canada,

*Bouchette's North America, vol. ii., p. 245.

(and with her the other great self-governing Colonies,) have already attained in the Empire, with which they are united. In 1891 falls the Hundredth Anniversary of the foundation of the Province of Upper Canada, the first English Colony created after the separation of those now forming the United States. Thus we may be said to stand at the close of the first century, not only of the history of modern Canada, but of the history of *the New Empire.*

Our modern Empire is—as compared with that which came to an end in 1783—a *new* Empire; new not only in the Provinces it contains, but in the hopes and aims of its populations, in the nature of its various Governments, and particularly in the noble, though unwritten, Constitution, which already unites them into one organized whole. The Author is fully conscious of the imperfections of the pages in which he has sought to set forth these conclusions. Would, indeed, that the treatment had been worthy of so inspiring a theme!

One passage, on the treatment of the Loyalists, and its lasting effect upon American Government and Society, may seem to some to set forth harsh and overstrained conclusions. Let our Author shelter himself from this charge, (which he certainly has not *intentionally* deserved,) by quoting from a recent work by a very distinguished and liberal-minded American thinker, which he has only lately had the pleasure and advantage of reading. The emigration of Loyalists, that writer

estimates, amounted to 100,000 persons, or nearly three per cent. of the population.* "The refugees of 1784," writes Professor Fiske, "were for the most part peaceful and unoffending families, above the average in education and refinement. To the general interests of the country the loss of such people was in every way damaging. The immediate political detriment wrought at the time was, perhaps, the least important."

Mr. Kingsford's last volume of his History of Canada has come in time to prevent this book perpetuating a hitherto current error. Mr. Kingsford's very independent and painstaking work throws grave doubt on the supposed emigration of Canadians after the Conquest, referred to in the above passage of the first chapter of this book. As the reference was made for the purpose of illustration only, and forms no part of the main argument, the Author did not feel justified in delaying the appearance of the book (then far advanced in the printer's hands) for the purpose of examining the original materials, so thoroughly explored by Mr. Kingsford. Justice, however, to the reader requires that reference should be made to the new light, thrown by a careful student of our history, on this long accepted tradition.

It may be remarked that the position of India in the Empire is hardly touched in these pages. This is, in part, because the Author's subject is more properly the

*The Critical Period of American History, p. 130.

historical and constitutional relations of the English nations, as such, towards each other: an ample subject in itself. Moreover, in writing upon the latter subject he may plead the justification of local familiarity with many of the problems he touches upon. He has no such justification for attempting to treat of the very different and immensely more complicated problems of India. Happily, Thought in India is as free as it is in Canada: and we may confidently expect that its many native scholars, and its able English Colony, will not fail to cast sufficient light before the advancing steps of that important constituent of the Empire.

He, certainly, would be a foolish Alchemist who would try to amalgamate that motley population, its races and religions—with their traditions of conquest and their divisions of caste—by the magic of the ballot. Freedom of speech, freedom of the Press, the right of petition, and open courts—no people can possess these, as the natives of India do, without being substantially a free people. Grievances that can at all times be made known are sure to be redressed in the end. With the hybrid populations of India, with differing customs of law and property, the function of the actual Government approaches so nearly to a judicial character that it is possible that the methods of judicial *appointment* may be a more appropriate mode of constituting its Governing Council, than the elective machinery,

which the homogeneous English race has worked out for itself. So long as England can continue the line of able, liberal and single-minded men who have filled the offices of Governor-General and Lieutenant-Governors of India, since the administration passed to the Crown, so long is the Government of India likely to continue to secure necessary justice, and all reasonable progress, constitutional and material, that the interests of its subjects clearly demand.

When the balance is being struck, of the good and evil that has resulted from the English acquisition of India, let the fact that it has given an opportunity of upholding the high tradition of English statesmanship at its best, be carried to the favourable side. The honour of the English race is exalted by the record of the Administrators of India: by that glorious succession, which has included Bentinck and Dalhousie, Canning and Lawrence, Dufferin and Lansdowne. They have been the irreproachable trustees of an Empire—the Antonines of modern history.

The present volume forms the second instalment of what has grown into a kind of series. It has been necessary to make reference more than once to the chapter on "Industrial Parliaments," contained in a first paper—(the anonymous brochure, called "The Irish Problem, as Viewed by a Citizen of the Empire.") This work may be followed (if life and leisure permit) by a final paper on "Our Future: its Prospects and

its Duties," in which the Author will dwell upon what appear to him to be the common interests of the English Nations.

The author desires to express his acknowledgments to the Editor of the "Northwestern Miller," to whose friendly encouragement the commencement of the whole series is due.

The original Proclamation of 1763, of which a fac-simile appears, was kindly lent for that purpose by Mr. James Bain, our erudite City Librarian.

THE AUTHOR.

TORONTO, 1891.

ERRATA.

P. 41, 346 } For Oxford *read* Cambridge.

344 For distinct *read* distant.

506 For their confidence *read* self-confidence.

CONTENTS

CHAPTER I.

THE FALL OF THE OLD EMPIRE.

Introductory: Estrangement of the English Nations—Maintained by Ignorance—Continuity of their History, notwithstanding the American Revolution—The Development of the Modern Empire—Connected with the former Movement—Sketch of the American Revolution—Causes of the Failure of the British Arms—The Failure not a Misfortune—The Fate of the Loyalists—The American Revolution partly a Social Revolution—Causes of the Continuance of American Ill-will—Lasting Influences of the Social Revolution—Party Despotism in the English Nations—The Cure of the Evil—(Note on the use of the term American.)..9

CHAPTER II.

THE TREATY OF PARTITION AND ITS FULFILMENT.

How Separation was viewed by Chatham and Shelburne—Modern light upon the character of the Treaty, its true Spirit and Motives—The disposition of the

West and the Fisheries the main issues of the Negotiation—Weakness of the American case—Treachery of their Allies—Their Overtures to Great Britain—The West to have continued part of Canada—French Motives—Speculations on the Result had the Overtures been Accepted—Why the Overtures were Declined—The Character of Lord Shelburne—The American Negotiators—Lord Shelburne's Motives for Conceding the American Demand—The promise of Free Trade the real ground for the cession of the West and the grant of the Fisheries—The connection between Reciprocity and the Fisheries—Postponement of the Trade Clauses—The Reciprocity Treaty of 1854 a part fulfilment of the original Agreement—Review of the subsequent Relations of the two Countries—Canada's Action—The Question of the Canals—Defective Fulfilment of the Treaty of 1783 in the Past—How to carry its Intentions to Completion—An International Supreme Court—Contemplated by Lord Shelburne—Important difference between an International Supreme Court and International Arbitration—Institution and Procedure of the Court—Its Influence upon the reform of Internal Government..... 132

CHAPTER III.

THE CONSTITUTION OF THE NEW EMPIRE.

Washington's Views—Progress of the English Constitution since 1774—Corresponding change in the Constitution of the Empire—Meaning of the term "The Empire"—A People of Many Nations—Federation without Centralization — Crown and People—Distribution of Legislative Powers—Future of Foreign Relations—Treaties—Inter-Imperial Trade—The Imperial Governors—Present Inconsistencies—How they are likely to be removed—Zollverein Schemes—Why not practicable—Central Representative Council not necessary—Adaptation of our Constitution to the true aims and objects of the Modern Empire—Military Security of the Empire without Great Armaments——Institutions essentially necessary to a Federal Union—The Judicial Committee of the Privy Council—Its Future as a Federal Court—Epochs in the Progress of the Modern Constitution—Canada's Portion in the Work—Pitt and the Constitution of 1791—1837—Responsible Government—Robert Baldwin—Edward Blake—Sir John Macdonald — Confederation — The Canadian Pacific Railway—The Treaty of Washington—Its Effect upon the Progress of the Imperial Constitution—Political Corruption—Its Causes and Origins—Mutual Interests of the Empire and the Republic—Reforms by Joint Action—Compulsory Voting—Civil Service Reform—International Supreme Court—Industrial Conferences for Deliberation on Trade Questions—Precedents in English History....345

CHAPTER IV.

OUR CENTENARY YEAR.

The Basis of our Citizenship—How our status depends on ourselves—Relation of Canada to the United States—Ruinous Effects of Hesitation—The Benefits of Decision—Canada's Unique Position—Canadian Character and Patriotism—Political Aspects of the English Nations—Canada's Portion in them—Difficulties of the Past—The Constitution of 1791—First Parliament of Upper Canada—Our Centenary Year coincident with Australian Federation—A Suitable Celebration—Declaration of Unity—Amendment of the Royal Title—Confirmation of the Federal basis—Attitude of the United States towards a Consolidated Empire—Means of promoting Unity—International Conferences—Future Ems of America—Unity of Popular Interests—The Railway Question—Political Independence, with Commercial Fraternization—Hopes of the Future.....494

CHAPTER V.

THE CRISIS OF THE EMPIRE.

The Newfoundland Question—How influenced by the example of American policy—Influence of Protectionism upon European Nations—The Imperial Union based on the principle of Liberalism, as

against Mediævalism—Reasons for Newfoundland joining the Canadian Union—The diplomatic weakness of the Empire before Europe—Uncertain attitude of the Colonies at this moment—Moral and material arguments in favour of promptly joining in a Declaration of Unity....554

APPENDIX.

On Foreign Relations—The Eastern Question—The joint interest of the Empire and the Republic therein.....581

THE NEW EMPIRE,

AND ITS RELATION TO

THE GREAT REPUBLIC.

I.

THE FALL OF THE OLD EMPIRE.

At the narrow chasm of the Niagara River the territories of two of the greatest Governments in the modern world approach and confront each other. Let the course of the same current which interposes a geographical boundary between the two nations, furnish a simile to illustrate their history, and perhaps, to describe their probable future.

Cloven, as it approaches the mighty cataract, by an island near the brink, the

volume of the Niagara River appears, for a time, as two nearly opposite streams; until the waters, reuniting below the fall, resume their majestic, undistinguished, flow towards the Atlantic.

Such, reviewed in a distant age, may seem to Historians to have been the course of the great division in the history of our ancient English people, that dates its consummation from the year 1783.

As two streams that though parted still continue to be one river, these two great nations, also, are moving onward in separate channels, under one original impulse and toward a like ultimate destiny. It appears at the present time to be the aim of many to aggravate the divergence which has occurred. To those who love and prize our common civilization it will seem to be a duty to make every effort to counteract those unnatural exertions; seeking, as opportunity offers, to hold the greater

facts up to view, above the temporary obscurations of local prejudice, interests, and passion.

If the United States on one hand, the other English nations, on the other, are as regards each other, independent, fact not less than sentiment seems to utterly repudiate the idea that they are merely foreign nations. Apart, but in lines more or less parallel, all are still working out, if possible to perfection, the invaluable principle of Free Government. Engaged in a common object for our mutual good and that of mankind, we continue to be one people. Our unity is the more essential, because our joint task is one that appears to be yet far from its accomplishment.

To me it seems credible, that—unless the hand is made to return upon the dial of history,—unless, by the fury of party or the corruption of demagogues, an unnatural direction is given to the

course of these nations—a time is not far distant when jealousy, or hostility between such neighboring communities, devoted to objects common to our race, will be thought as absurd as for one County to be jealous of the municipal existence, or well being, of the County next it.

Between the United States and Canada, (the frontier Dominion of our great New Empire,) sentiments of jealousy of the other's power or prosperity, from emnity caused by its political independence, must at last be seen to be as vain as they are undignified. Time will teach the one country to respect its neighbor's autonomy; as it will accustom the other to witness, complacently, if not with rejoicing, the surpassing greatness of a kindred people.

What largely, I believe, poisons the spirit of our international controversies,

particularly of that which is going on at this moment, is an insufficient popular appreciation of historical and political facts.

For, though a broad and candid spirit is exhibited in the pages of our later Historians, whether American or English, it is doubtful whether the same spirit can be said, in the meantime, to be widely reflected in the utterances of the newspaper and the platform: which, in modern times, rather than the contents of the library, form the source and measure of popular information.

The habitual declamation over the establishment of American independence has blinded and probably yet blinds many to the merits and even to the true mental attitude of the revolutionist actors in that drama. By popular admirers on one side, as by adverse critics on the other, that attitude, it seems to me, has been made the subject of misjudgment; and the error

is not without its influence upon the feelings and policy of our own day.

It has been usual, even with historians, to review the events of that time as leading up to a single, crowning fact. The Revolution has been treated chiefly as the beginning of the history of a Nation. But when we group together these episodes, of a greater, still unfinished drama: when we view even the rise and struggles of nations as incidents in the political progress of a great Race: events will be seen in a different perspective, and perhaps with new sympathies.

As the structure of the American Government stands upon ancient foundations, laid before the American Revolution: as the Petition of Rights and the Bill of Rights are often on the lips of American constitutional lawyers, writers, and speakers: so, since the great partition of 1783, the original sequence has been continued,

not on one side only but on both; each nation advancing for itself on the ancient lines, with a progress sometimes almost unknown to the others. Not the United States alone, but all the English nations, participate as common inheritors in the benefits of the Declaration of Rights of 1774, and in many fruits of the Declaration of Independence of 1776.*

Precisely as we, the citizens of the new Empire, learn to measure the gulf that divides our modern system, internal, colonial, and foreign, from the spirit and practice of government previous to 1776, we shall recognize how great an event was the American Revolution:—that it was a

* A remarkable illustration of the unity of our progress is presenting itself, in the institution of the Ballot. First transplanted from the United States into Australia, it has taken root throughout the Empire; and the developed tree is now on the point of being re-imported into the country of its origin, as an improvement upon the parent stock.

necessary incident, not so much for the development of a nation, as in the progress of the whole race.

Past changes, that have already put a new face upon the Empire, and the direction of developments still to be undergone, are traceable to preceding events. In this instance it is not illogical to conclude, *Post hoc, propter hoc.* The great shock of the American Revolution sent English Colonial policy upon a new tangent. Moreover, as by a conversion of energy, the impulse from without gave rise in its turn to a liberalizing vigor within, which has since wrought great changes, not merely in the polity of the Empire, but in the structure of the British Constitution.

When, not long before the Revolution, it had been necessary for Lord Mansfield, for the decision of a private controversy, to lay down an opinion regarding the relative authorities of the Crown, the Im-

perial Parliament, and the Provincial Legislatures, Lord Mansfield's opinion was in favor of an ultimate supremacy of Parliament. But when King and Parliament sought to act upon a like opinion, the Colonists of 1774 resorted to deeper lying principles. From judicial *dicta* they appealed to the essential spirit of the Constitution; a constitution which even then was dimly felt to be a common possession throughout the Empire.*

That Constitution happily is one which could not then and cannot now be read in any book. Theories laid down by authorities of a former century, sometimes of the last generation, may be no longer true or binding upon an English Government of a later day. New applications have been continually forcing us to go deeper into

* "As *Englishmen*," wrote Washington in 1774, "we "could not be deprived of an essential part of our consti- "tution."

fundamental principles: until at last we *seem* to have revised what once appeared to be the principles themselves. Yet, this would be true in appearance only, not in fact. The variations are always in the direction of enlarging freedom: and Freedom is the real foundation of the law of England. Feudalism itself was but a temporary aberration, imposed partly by conquest and partly by the necessities of a warlike and anarchic age. As the day for Feudalism passed away, the ancient principles began to reclaim their place. The spirit of English Freedom came forth again among men, proclaiming: Before Feudalism was, I am.

The American Revolution marked a stage in this long evolution. The framers of the Declaration of Rights were only asking, in their time, for a logical application of the principles of English liberty to a novel situation. The more loyal we are

to our modern faith in a United Empire, the less can we dispute that, in the main, Franklin and his fellow colonists were constitutionally right in the great struggle that divided our race in the eighteenth century.

Nothing could be more temperate or more loyal, and yet nothing could be clearer or more resolute, than the formal expression of the claims to an Imperial citizenship by that first general Colonial Congress of 1774.

"Our ancestors, who first settled these colonies,"—thus runs the second article of their Declaration,—"were at the time of "their immigration from the mother coun- "try entitled to all the rights, liberties and "immunities of free and natural born sub- "jects within the realm of England." "By "such emigration," continues the article, "they by no means forfeited, surrendered, "or lost any of these rights, but they were, "and their descendants now are, entitled to

"the exercise and enjoyment of all such of "them as their local and other circum- "stances enable them to exercise and "enjoy." "The foundation of English "liberty," they continued, "and of all free "government, is a right in the people to "participate in their Legislative Councils; "and as the English Colonists are not "represented, and from their local and "other circumstances cannot properly be "in the British Parliament, they are en- "titled to a free and exclusive power of "legislation in their several Provincial "Legislatures, where their right of repre- "sentation can alone be preserved in all "cases of taxation and internal policy."

The Home Parliament could not have chosen a more unfortunate ground than the question of taxation, for raising an issue between its own pretensions and the rights of the colonial legislatures. The position of the latter was really unanswerable.

Lawfully they opposed the claim of a Parliament, elected from English constituencies alone, to tax distant subjects of the crown, organized under governments of their own, and having no delegates in that Parliament.

Under the warlike Norman kings, the regular expenses of the Crown grew to be burdensome. They had been provided for originally out of income derived from proprietary lands and feudal dues; till partly by its improvidence, and partly through growing public necessities, the Crown had exceeded this fixed private income.

The King, nevertheless, had no lawful authority to lay hands upon the private wealth of any subject without his consent. The early attempts to do so in England had been regarded as mere robbery, and were successfully resisted as such. The right of Parliaments, when composed of

Barons alone, was no better than that of the King; as respected the mass of the nation. The lawful power of such assemblies was limited to voting *voluntary* levies on their own lands. The fundamental principle of English taxation was *self-assessment.* It was necessary to ask the towns to vote their own contributions; sometimes in the beginning the different towns had even voted their respective assessments separately. The right of imposing general taxes on the whole people had been conceded to Parliament as it became a general assembly of representatives: not from localities merely, but, at the same time, from the principal *classes* composing the population in the localities.*

* The representatives of boroughs were summoned to represent the guilds of merchants and artisans in the towns; the country population of farmers, or yeomen, was represented by the knights of the shires elected by them, and the nobles and clergy sat as a class of great land holders.

Under such a Constitution, evidently, there could not be any logical ground for the claim of the Parliament of Great Britain to a power vested in itself to tax the people of the great organized colonies. To assert it was, as Washington protested, to deny to colonists the status of Englishmen.

Decisions of English courts could not make such claims rightful: because the English constitution has never been within the jurisdiction of any court.

In reading the history of the early steps in what became the Revolutionary war nothing is more striking than the marks, not only of unanimity and resolution, but of assured *legality* in the public action of the colonists from the outset. The General Court of Massachusetts, on the very eve of the outbreak, submitted for Royal approval their bill for the purchase of cannon. Even before the skirmish at Lexington the King's troops, amounting to a considerable

army, had been practically shut up in Boston; and within less than two months afterwards a siege of that city had been formed by a regularly organized force of 16,000 militia, summoned, armed and officered by the public authorities of the Provinces: while at the same time, the word rebellion was still being avoided.*

Justice was coupled with historic appropriateness in the line in which the poet Whittier declared of his countrymen:—

"We too are heirs of Runnymede."

The colonists' assembly in arms bore the closest resemblance to the earlier pre-

* Immediately after the encounter at Lexington, the Provincials sent over to England a sloop, with affidavits of all that had passed. Among these was the affidavit of a Colonel of Militia, that he had given his men orders to fire on the King's troops, if the latter attacked them. "It was firmness, indeed," writes Horace Walpole, "to swear to having been the first to begin what the Parliament had named rebellion." Walpole's Mem. of George III., Vol. I., p. 191.

cedent of the assembly of the Barons. It was a resolute protest or resistance by the united public force against an infringement, (itself threatened to be enforced by arms,) of primary rights of Englishmen.*

For nearly two years following the first fatal encounter between the Royal troops and the Massachusetts militia at Concord, the war continued to be of the nature of a test by the final resort to arms, of a fundamental though undecided question of constitutional law.

Throughout that period, from the declaration of rights in 1774, down to the very verge of the Declaration of Independence of 1776, the Provinces continued to assert their loyalty to the Crown, while they were firm in resisting what they rightly claimed.

* The presence of the Royal army in New England excited an indignation and resistance parallel to that which had been aroused when Strafford undertook to overawe the constitutional opposition of his day, by an importation of his Irish troops into England.

to be unlawful encroachments upon their liberties, as English subjects of an English King.

The Colonists claimed, virtually and not merely ostensibly, that they were not setting aside, but maintaining, their true relations to the English Crown and to their fellow subjects in England.*

But the war of the American Revolution, in the course of its seven years continuance, was destined to pass through three distinct phases. It commenced as a struggle for

* There is no reason to judge that attitude to have been insincere. Says a very late American authority (Mr. Ellis, President of the Massachussetts Historical Society, in his contribution to the seventh volume of Mr. Justin Winsor's series of historical papers):—"The facts and inferential evidence within our reach fully confirm the constant avowals of Washington, Franklin and John Adams, that up to the assembling of Congress the vast majority of the people neither contemplated independence nor were in a condition to safely assert or safely contend for it."— *Narrative and Critical History of America, edited by Justin Winsor.*

constitutional rights; the Declaration of Independence converted it into a war of Revolution; and in the final stage, it merged into a general war between the great powers of Europe.

To obtain a Congressional majority for the Declaration of Independence required two years manipulation, and it was finally brought about by "a bold stroke."*

Independence, like the emancipation proclamation in the late war instituted by the Southern States, was a development, not the original object of the war. Nevertheless in one case as in the other, the ultimate step was predestined by a necessity superior to the intentions of men. At a certain stage in the conflict it became inevitable.

English constitutional liberty was originally merely a domestic conception. It is a familiar maxim that a free people is ill-fitted

* Writes Mr. Ellis (in Winsor's History Vol. VII.)

for empire. For extension to foreign provinces there was originally no known place under our ancient constitution. The blank was filled by applying to the newly discovered accretions of distant territory, as in America, foreign ideas imported from the only known precedents of Colonial empire, those of imperial Rome. The soil of those territories was considered simply as a Royal acquisition and the administration of the property became an incident belonging to the royal prerogative. In the progress of time, as "the Plantations" grew and prospered, the conservation of their commerce became important as a source of wealth to the Mother Country. The Commons then began to assert an interest in their government. The tendency of the assertion, far from taking the direction of political liberalization, was merely in the direction of trade centralization and monopoly. The Government

was not free, nor was it paternal, but rather proprietary. The theories of Rome were administered in the spirit of Carthage.

How such doctrines were to be reconciled with the right of Self-Government, inherent in an English people, was a question sure to arise when the Colonies became populous with descendants of English emigrants. Nevertheless, it was a problem which had not occurred to the old lawyers, and which Parliament rather waived than took into grave consideration, when it first resolved to impose taxation on the Colonists without consulting their local legislatures. But the problem was stated to Parliament very precisely, if somewhat peremptorily, by the Declaration of Rights of 1774. Two years may even now seem short enough to have brought King and Parliament to adopt the solution that document demanded. But unfortunately the course of events did not allow even that length of time for deliber-

ation. By the time the Home Parliament had declared its grudging and insufficient admission of Colonial rights, the Colonial Congress (in despair of that result, and reluctantly as far as many members were concerned) had declared independence.

The persistent refusals of Parliament and the King, down to the date of the Declaration of Independence, to yield the points in contest really left no other choice to Congress. It seemed to have before it only the almost equally bitter alternatives: —of surrendering its constitutional contentions, or of defending them to desperation. When its members weighed the relative forces of the mother country with their own, the struggle, single-handed, appeared to be all but hopeless. But as it became clear that help from abroad was absolutely necessary to success, it had become scarcely less clear that to continue the difference with the mother-country on

the footing of a domestic quarrel, was to exclude all hope of obtaining the required assistance. In a purely domestic struggle, in conformity with the usages of nations, no civilized European power could decently intervene. The French Minister even hinted, in a pointed manner, that it would not comport with the dignity of his King to treat with the revolting Colonies openly, "until the liberty of America should have acquired consistency." * A declaration of Independence was the indispensable first step towards seeking a foreign alliance.

The Committee of Congress which framed the decisive recommendation in favor of the Declaration of Independence, significantly accompanied it with a second resolution, "That it is expedient forthwith to take the most effectual measures for forming foreign alliances." I see no reason to doubt that a reluctant sense of the neces-

* Winsor's History, vol. vii., pages 24-30.

sity for the assumption of Independence, as a war measure, constituted the greatest influence in bringing over the majority to its favor.

The Colonists, a foreign observer of the time had predicted, would prefer independence to slavery. The choice was forced upon Congress, and it decided upon the sterner alternative.

What would have been the result, had Congress, at that critical moment, preferred to yield the constitutional right it was contending for, rather than pursue it, to what seemed, to many of those who voted for it, a bitter end? It is more easy to assert than to prove that the practice of Free Government would, in that case, have been the same that it is to-day in England, and in her colonies throughout the world.

It is true that a vigorous struggle had been going on in Parliament, concurrently

with the military struggle in America, between the English Liberal party and the party of Absolutism. It is also true that the English Liberal party then and ever since has in the long run proved steadily triumphant. But who can assure us that this would have been the result if the colonies had submitted, at this stage: or if, by loyally denying themselves foreign succor, and persisting in their struggle single-handed, they had been overpowered? Are we able to picture with any certainty what would have happened if the surrender of Yorktown, the crowning fruit of the French alliance, the event which disheartened the Tories and became the first step to peace with the United States, had not taken place? Victory, if it had taken the side of George III., would have brought to that side the *prestige* of victory. The magnificent material prosperity which, in the course of time, has befallen the American

Republic, has made it a common habit, in all countries, to glorify the cause of popular freedom. In possession of wealth and power, Liberty has been vulgarized into fashion. Men are but imperfectly reasoning beings, and success is generally their major premiss. In the minds of the masses, the event of a lawsuit, a general election, or a war, is a determination upon the merits. In popular judgment, the defeated cause is conclusively proved to have been in the wrong. The large part played by irrelevant influences,—by that accidental element which Goethe called *the Demoniac*,—in all these events, is little considered, in the rough logic of average men. In endeavouring, for instance, to measure the possible effects of a final defeat of the Colonists, let us not forget that long continuing check of a promising constitutional party in Germany, of which we ourselves, in our time, have been witnesses. Not

relevant arguments in the Reichstag, but success on distant battlefields, overthrew the German Liberals. Sadowa and Sedan, the victories of the nation against its foreign enemies, were also triumphs of Absolutism over Constitutional Opposition at home.

Did not, in the United States, the same reacting logic keep the Democratic party in the background long after the victory of the Union party? For twenty years after the Southern secession, that cloud rested. The determination of the Republicans having resulted in the suppression of the Southern movement, it was a sufficient condemnation of the rival party at the North, without any proof of overt disloyalty, that it had resisted a general policy, to which, in the meantime, Success had set her approving seal.

Thus the decision of Congress, I think it may now be believed, was in a very

broad sense a fortunate decision. It was fortunate, that is to say, not merely for the American nation, but for the wider cause of English freedom.

Nevertheless there are still those who more or less mildly deplore the ultimate form of the American Revolution, as an avoidable calamity.

The Revolution was not inevitable on the ground so commonly taught, especially to American schoolboys, but also held by a certain class of modern Englishmen,—that the separation of colonies is the neccessary consequence of their *growth*. But to me there seem to be reasons for viewing that particular disruption as a necessary as well as an inevitable event. It is probable that nothing less than the great fact of the War of Separation would have broken down principles of government and habits of thought, which, while they con-

tinued in force, made a great world-wide union impossible.

It is more than questionable whether the sentiments of "the Patriot King" on the American question were not more nearly those of average Englishmen of his time than the small but able body of statesmen who opposed him liked to confess.

In the midst of his insolent violence and misjudgments (the penumbra, perhaps of approaching mental alienation), George III. always, throughout his course towards the Colonies, and in the assertion of his prerogative at home, believed himself to be not only within his personal right, but pursuing his patriotic duty as King of England.

I therefore venture to question a little the truth, as I cannot admire the generosity, with which modern English writers hasten to throw the whole guilt of the war of separation upon the head of George III.

In vain "the eloquence of Burke," writes Fitzmaurice, had "vied with that of Chatham, the learning of Downing with that of Camden, in denouncing the unconstitutional character of the Government proposals."*

Why had these great statesmen and lawyers, and others like Shelburne and Barre, vainly raised their voices, some in the Commons, others in the Lords? Why both in Commons and in Lords were they in a minority—not even a steadfast and united minority? Shelburne declaimed that the majority in Parliament was corrupt, and did not represent the nation. But in another breath he complained, with despair, that the nation itself was deluded. Clergy, army and law supported the Court. Shelburne's Wiltshire farmer—whom he quoted as typical of the mental state of the average Englishman—even while he sincerely wished for peace, could

* Lord Fitzmaurice's Life of Lord Shelburne, vol. ii, p. 310.

not relinquish the position that made it impossible. The Colonies "should be taxed as well as Great Britain." The expenses of the past war and the yearly burden of the army were for the general benefit and should be borne in common. With abstruse researches in politics as a science the farmer would not trouble himself. England had the lawful power, and England he thought ought to employ it, to enforce what seemed to him to be fair and equitable terms.*

The landed interest, against which Shelburne was driven to declaim, was not indeed the whole nation, nor always the most enlightened part of it Yet it was fairly representative. The yeomanry and gentry, in times past, had been the sturdy bulwark of England's ancient liberties. The class which had once furnished England with a Hampden, was now exhibiting the

* Life of Lord Shelburne, Vol. iii, p. 7.

faults of its virtues. The self-same sturdy tenacity which had maintained the rights of Englishmen when attacked by the King, now asserted what were claimed to be the legal rights of Old England against the Colonies. There, however, it was encountered by the spirit of a kindred stock, endowed with a tenacity like its own.

There is very little doubt that the controversy between the Home Government and the Colonies would not have been ended, save for a season, even by a more timely repeal of the tea duties and Stamp Acts. "We are contending for a principle," said Washington. The principle was one of which the application was continually widening. Before long the Navigation laws, which forbade the colonies taking part in foreign trade, must have been next attacked. That attack would, probably, have been met with strenuous resistance.

It could not have succeeded without striking at the root of all the accepted theories of the time. It was opposed less directly to the Eighteenth century doctrine of colonial subjection to the Royal prerogative, than to that assumed supremacy of the Home Parliament, which has lingered, as a theory, to the verge of our own times.

In the views of Lord Shelburne, we may look for the high-water mark of English liberalism in the 18th century. We find it in his speech against the quartering of troops in Boston, to enforce the tea duties. "If the claim of taxation," he said, "was fairly relinquished, without reservation, I am confident *the supremacy of the British Parliament* would be acknowledged by America, and peace between both countries be happily restored."*

From his Oxford chair the gifted author of "Ecce Homo" now impresses upon

* *Life*, p. 307, Vol. ii.

the future statesmen of England—what the framers of the Declaration of Rights anticipated by a hundred years,—the inspiring conviction of a world-wide England, and a world-wide equality of citizenship. For such radical concessions the times in 1776 were certainly far from ripe.

So swift as well as recent have been the changes to which the modern Empire owes its prospects of duration, that the chief and crowning stages of the silent revolution belong to the recollections of our own generation. New developments in opinion have been concurrent with new departures in practice.

We may credit the great shock of the American Revolution as one factor in preparing the minds of Englishmen for a new and grander conception. The conspicuous growth of the United States and also of the remaining colonies may have been a contributing cause. But perhaps we are

not more indebted to political facts than to physical improvements brought about by Time.

To do justice to matters beyond the seas has always been difficult to the untravelled Englishman. The recent facilities of travel and communication are supplying knowledge, and are rapidly overcoming that native defect of imagination. Of that defect, in 1774, even legal ideas partook. Conclusions of law are proportioned to their basis in facts: as in the growth of a tree, the spread of the top is limited by the circuit of the roots. Thus in the Eighteenth Century the material links that are now potent to bind an Empire together were wanting. Time could not sleep a century for those modern arts to facilitate travel and foster the widening sympathy born of mutual knowledge. The *incommunicable sea* lay between two halves of a people, destined

to be arrayed in opposition by the very similarity of the ideas they had inherited, and the character they held in common.

The step of declaring independence imparted a new and more unhappy character to the American war. Henceforth the movement, formerly Constitutional, became openly Revolutionary. Congress in the beginning had led—if not a unanimous people,—at least one in which the minority (excepting in part of the Carolinas) was non-resistant. The people, substantially united, had been battling under the virtual forms of law to maintain rights claimed under the law, side by side with a great and growing party supporting the same cause in the Home Parliament.

But the action now taken made a local war of parties inevitable. Armies were now to be levied not to reform the administration, but to destroy forever the

existing government. It was natural that arms should be taken up to maintain it.

In New York there had been Tories upon the Patriotic organization, or "Committee of Safety:" "Conservative members," who, (in the words of Mr. Bryant), "afterwards became Tories." To this party, he adds, belonged many of the best and wisest of the colonists. John Adams put them at about one-third of the whole people.*

Thus the contest in America was far from being wholly, perhaps even chiefly, an *international* war. Modern readers have no excuse for falling into the mistake of so regarding it. On this subject, among so many others, modern historical investigation, as with customary frankness

* Bryant: Popular History of America, vol. iii., p. 455. Lecky thinks it is probably below the truth that more than one-half of reasonable and respected Americans were either openly or secretly hostile to the revolution. (Winsor: Narr. and Crit. Hist., vol. vii., p. 187.)

and thoroughness it lifts the veil from the facts of the past, is dissipating the clouds of popular prepossession and prejudice.

"A civil war," writes one of the most recent American authorities, "was the War of Independence in its early stages, and such, in fact, in some of its features, it continued to be till its close."*

The final resolution to overturn the long established order, like the later act of secession in some of the Southern States, was primarily the act of a majority, larger or smaller in each Colony; and, just as was seen in many of the Southern States, the genuine majorities in favor of the great change were in the beginning probably quite narrow.

We, who can yet recall the resentment aroused in the populations of Nova Scotia and New Brunswick when their regular

*Dr. Ellis: Winsor's Nar. and Crit. Hist. vol. vii., p. 194.

legislatures joined these Provinces to the Canadian Confederation: how bitterly they complained because the Act of Union had not been submitted to a formal plebiscite (which would in all probability have resulted in its rejection): how for more than a decade they continued to clamour and to threaten, in consequence of the comparatively minor change in their status, that had been so effected: and how afterwards a like feeling among the inhabitants of Fort Garry, at the time of the cession of the Hudson Bay Company's territories to Canada, was fanned to the height of actual rebellion: can easily suggest to ourselves the feelings that must have been aroused when Congress, by a vote representing at best a mere majority of the people, adopted the Declaration of Independence.

Not only credibly reported, but antecedently probable, is the statement which Dr. Ryerson in his history of the Loyalists

founds on contemporaneous testimony, that the American levies in the King's service were at one time after the Declaration of Independence estimated to be more in number than the whole number regularly enlisted in the service of the Congress.*

Hostilities, in this, like other civil wars, were not limited to regular armies. Partisan excesses, very destructive in the aggregate, afflicted a large portion of the country, and multiplied the miseries of the long interval between the Declaration of Independence and the cessation of hostilities in 1782. Matters hurried to that inevitable stage in civil war when the weaker party obtains the aid of foreign arms.†

*Loyalists of America, vol. ii., p. 147.

† Hildreth, vol. iii., cap. xli., p. 329, thus describes the condition of the Southern States, where the conditions of civil war had been present from the beginning. "All the scattered settlements bristled in hostile array. Small parties everywhere under arms, some on one side, some

Until the French alliance was secured, in spite of the astonishing incapacity of the Royal Generals, the contest on the whole was an unequal one. Whatever victories the Americans who fought under the orders of Congress might win over the Royal armies and the Americans who fought with them, the latter could always fall back on the unfailing resources of the Home Government in money, munitions and supplies.

The Declaration of Independence, as we have seen, was a measure adopted with a direct view to forming European alliances. It was on the 6th February, 1778, that the French Minister formally announced to the Court of St. James that a treaty had been signed by his Royal master with the United States; (the latter, he was careful to emphasize, in a preamble to his com-

on the other, with very little reference to greater movements, were desperately bent on plunder and blood."

munication, "being in full possession of Independence, as pronounced by them on the 4th July, 1776.")*

The anticipated war was not long in following between France and Great Britain. On the 16th June, 1779, Spain, under the persuasion of France, followed her example to the extent of joining that country against Great Britain, but without becoming an ally of the Colonies.†

The third and final stage of the American struggle had begun. When France and Spain entered upon the scene, the revolt of the Colonies became merged in a war between the great powers of Europe.

France sought to re-open chapters which had been closed in 1760, and even earlier. Spain concentrated her fleets and armies to

* Winsor, vol. vii., p. 48.

† To the end, the Spanish King, himself the absolute governor of a great American empire, haughtily declined to recognize or negotiate with the revolting Colonies.

gain objects of her own. No longer was the seat of war confined to America. From Gibraltar to the Indies, East and West, on land and sea, the hereditary antagonists once more confronted each other on the ancient battle fields.

Secure of the aid of such powerful allies, the primary object of the colonies became all but a foregone conclusion. Their independence of the Mother Country was practically established. In the military operations, as afterwards when the time for diplomacy arrived, the part of the united Colonies was thenceforth hardly to be the principal one.

A gallant and brilliant struggle England made against the mighty odds opposed to her. Everywhere, except on the mainland of America, English arms, on the whole, repelled the combined attacks. Sailors and soldiers, as if half-hearted in the unnatural contest with their kindred,

battled with redoubled ardor against that league of inveterate enemies, once more threatening the existence of England, the ancient fortress of civil liberty, and refuge of Protestant freedom of thought. Even Americans, at this date, ought to contemplate the history of that resistance with feelings of kindred pride, and its results with gratitude. How it might have fared in the end with the United States themselves, had their Mother country been beaten helpless upon her knees at the conclusion of that terrible struggle, let the secret history of the peace negotiations of 1783 declare. *

A general European war proved, as it had proved on many previous occasions, to be as indecisive as it was exhausting. In the course of four years after the French alliance, seven after the beginning of the Revolutionary struggle, all parties

* Chapter II.

were becoming ready to entertain proposals of settlement.

The final means by which Providence (in the introductory words of the Treaty of 1783) "disposed the hearts of the Powers to peace" were, on the one side, the mortifying surrender of Lord Cornwallis at Yorktown to the united forces of the American and French armies: happily followed by two events that produced the like effect upon the other European belligerents. After the crowning victory of Rodney over the French fleet in the West Indies the French began to despair; and the successful relief of Gibraltar, soon afterwards, similarly disheartened their Spanish allies.

In the United Colonies themselves war had been waged, savagely and widely, for seven years. It is not surprising to read in Bancroft that the condition of the Treasury of the United States was deplorable.

The debt was already over one hundred millions. The quota assessed by Congress upon the constituent States were almost absolutely unpaid.*

At the same time the sources of financial aid from abroad were drying up. France, on her part, was beginning to resent the continual demands for assistance, military and financial. Such demands, indeed, France, if in the mood, was not in a condition to meet. To quote again from Bancroft, "The French navy was declining; the peasantry were crushed by their burdens. No one saw the way to meet the costs of another campaign."†

* While the expenses of the war had been twenty millions annually, all that was received in five months of 1782 was only sufficient for a single day. Only by loans at usurious rates had the army been kept short of the point of starvation or disbandment. "Their patriotism and distress," wrote Washington in October, 1781, "have scarcely ever been paralleled, never been surpassed. It is high time for a peace." Bancroft, vol. 5.

† Bancroft, p. 562, vol. v.

After the final failure at Yorktown, when Parliament could not be persuaded to continue the struggle any longer, George III. reluctantly yielded to the now united wishes of his people. "Independence," the King himself exclaimed, "must be the dreadful price of peace." On July 1, 1782, Lord Shelburne was authorized by the King to form a new Ministry, which he had virtual *carte blanche* to make of a very liberal complexion: that is to say, favourable to the full admission of Colonial rights.

George III. submitted with a bitterness proportioned not merely to the injury to his pride as King of England, but to the failure the event imported to his whole scheme of Government.

Independence—to the King the "dreadful price of peace,"—may have purchased for England liberty as well as peace.

What the contrary event foreboded is forecast by a contemporary, Walpole. Up

to a certain point the King had been successful in a struggle to advance the prerogative at the expense of the liberties of England. Had the American war succeeded to the wish of the Court, the Constitution, already materially degraded from what the Eighteenth century writer calls "the happy level" to which it had been brought by the Revolution of 1688, was intended by the triumphant Court party, to be subjected to yet greater alterations.

But the enormous expense incurred by the war, of which the King and his party bore the responsibility: the unnecessary profusion, the corruption and incapacity of the Royal regime, "producing no success, on the contrary producing disappointments, disgraces, losses, distresses; and the majority in Parliament upholding the insolence of the Court and ministers," says a contemporary writer, "opened at

last the eyes of the nation," and combined them into a formidable opposition.*

Comparing the poverty of the Colonies with the resources of the Mother Country: remembering that all America did not spring instantly into insurrection, even after Massachusetts had fired the first gun: that afterwards the Colonists were nowhere unanimous on the question of separation, but that even to the last a considerable portion were on the side of the Empire: we shall see that the result of the Revolution was by no means a foregone conclusion. Before the French alliance the odds, apparently, had been altogether in favour of the Mother country. Even after the alliance, there was room for all the accidents of war: for the play of time and circumstance: for the effects of energy or negligence, and the relative capacities of men.

*Walpole's Memoirs of George III. Vol. 2 page 381.

As periods of tempest and flood test the foundations of human structures, in like manner the trial of a great war brings to light any flaws and undermining corruptions that have been at work in a nation's administration.

Nepotism and corruption, the basest selfishness of spirit, expressed in rivalries and intrigues of public men, and unpatriotic negligence in office, were diseases inherent in the system of the Old Empire. Such diseases, under the strain of the American war, became causes that brought that Empire to its fall.

As we look back upon the whole course of events, the fortunes, political and military, of the struggle seem to have turned very largely on two decisive disasters to the British arms. The first was Burgoyne's defeat and surrender in 1777. That marked event, occurring so early in the war, was yet

more fatal in its consequences. The defeat of Burgoyne undoubtedly influenced the action of France. The French alliance provided the young Confederacy with the credit and arms required to prolong the war. France lent the military and naval assistance, without which the siege of Yorktown and the surrender of Cornwallis—the crowning defeat,—could not have been effected.

The story, curious but instructive, of the secret cause of Burgoyne's failure, upon which so much depended, is revealed in a memoir left by Lord Shelburne.*

The plan of the first American campaign was sufficiently ably laid. Burgoyne was to march upon Albany from Montreal, and Sir William Howe was to co-operate from New York.

*Life of Lord Shelburne, Vol. I.

Collateral instructions to the two commanders were designed to be forwarded by the same packet: contemporaneous delivery was all-important. The member of the Council upon whom this vital duty rested, was Lord George Sackville. Lord George, (ill-omened founder of a family predestined to be luckless in diplomacy as in war) stood high in Royal favour. For twenty years a servant of the Crown, and now Secretary of the American Department, which controlled the military operations, he was a type of the times, and a product of the Royal system of Government. He bestowed upon his own sons as sinecures, offices which ought to have been executed by able and resident persons. Corruption had become with him an inveterate habit. He trafficked like a Senator of decaying Rome in Governorships and other important appointments; although it was a

moment when it was of the utmost concern to fill them with men of the highest eminence and character.*

Lord George called at his Department at an appointed hour to attach his signature to the American despatches. The despatch to Burgoyne was ready and he signed it, but the instructions to Gen. Howe did not happen to be fully copied. It was a vital moment, but Lord George was impatient to proceed to a country house; and he left the Office to complete the second despatch, and forward it to his retreat. "The Office," we are not surprised to be told by Lord Shelburne, "was always a dilatory one." Negligent, like their chief, the subordinates allowed the packet bearing the first despatch to sail before the second was expedited. The following packet was detained by

* Life of Lord Shelburne.

contrary winds; and thus when Howe received the instructions directing him to co-operate with Burgoyne, it was too late to effect a junction. "Hence," writes Lord Shelburne, concluding this extraordinary memoir, "came General Burgoyne's defeat, the French declaration, and the loss of the thirteen colonies."

Yorktown, the last disaster, which accomplished the ruin of the old Empire, like the disaster at Saratoga which had begun it, may probably be charged as another fruit of the old Royal system. The ignominious surrender of Lord Cornwallis had for direct cause the failure of Clinton to reinforce him from New York. Later evidence seems to have relieved Clinton and Cornwallis, respectively, of the charges they mutually brought against each other for their conduct on that occasion. But the ex-

culpation of those generals of the land forces only leaves denser a cloud of suspicion that has been thrown on the motives of a more eminent commander. Admiral Rodney, after checking the French fleet in the West Indies, failed, by an extraordinary omission, to follow it up to America: where it was soon employed in transporting and protecting the allied army. Had the French fleet been prevented from lending its aid, Cornwallis could not have been followed to Yorktown, and there encircled, isolated and over-powered, by the joint forces of Washington and Rochambeau. The critical moment of the final campaign found Admiral Rodney sailing uselessly to England, while the force he was destined a year later to destroy, was contributing to the movement which practically terminated the war.

It is not wonderful that known ani-

mosities between Rodney and Clinton should have been pointed to in explanation of the Admiral's extraordinary neglect. A regime of favoritism, intrigue and shameless self-seeking at Court had its natural counterpart in mutual distrust and jealousies among the commanders in the field. Suspicions, the most serious, must rather stand as unproven than be dismissed as improbable, against men holding high station in that time. It was not long before Cornwallis' surrender that Admirals, fresh from the scene, had openly bandied mutual charges of treacherous conduct in action, across the floor of the House of Commons.*

The prerogative dreams the King had encouraged had chosen their own test, and they had failed beyond all redemption. The reviving hopes of absolutism

*For this incident, see Walpole's Memoirs of Geo. III. Vol. II, p. 309.

in England never recovered from that one terrible experience of Royal mismanagement.

"The fact is" writes Lord Shelburne in his journal, recording after his retirement, the results of a life's experience: —"all Courts and Princes have a dread of talents. It is a wonderful blessing," he reflects, "that while almost all Princes make the extension of their power the great object of their lives, the narrowness, jealousy and incapacity which for the most part characterizes them, deprives them of the only means of accomplishing their object—an honest and capable minister. They never want for *instruments.* Activity is a cheap commodity; liars and libellers, caluminators and intriguers, are always within call to prevent anything like reform. This is what Kings call governing. It has been the same in all times and in all Courts."

Thus a contemporary depicts the English monarchy in its 18th century stage. The complete acceptance, since that hour, of the rule of Constitutional Government, has been an essential gain to Prince and to people. It has given both a common interest in the good management of the Realm, free from the rivalry that results (in republics as well as in monarchies) from disputed jurisdictions and divided powers: free from cross purposes and conflicts of will between the titular Head of the State and the body of popular Representatives.

So brief had been the rest of Great Britain upon her pinnacle of Imperial power, that just twenty years separated the Treaty of 1783, which announced the end of so many magnificent prospects and exalted hopes, from the Treaty of 1763 which had begun them. One

brilliant life, to which the Empire had chiefly owed its glories, almost measured their duration.

History presents few moments more truly dramatic than that well known scene, when the great Earl of Chatham arose for the last time in the House of Commons, to breathe his dying protest against a resolution favourable to American independence.

To the thought of conceding independence, the King himself had not been more firmly opposed, than the great liberal statesman who had been one of the constant opponents of the unhappy policy that, in the end made independence necessary. In his youth Lord Chatham had planned the conquest of America. In his prime he had brought the great design to fruition. But with advancing years, a mind preyed upon and clouded by some mysterious dis-

ease, had enforced retirement; and the builder, by his courage, labours, and genius, of a vast imperial structure had been compelled to be a helpless witness of the impolitic process, by which inferior hands slowly brought the glorious erection to ruin. Now he spoke in vain: the decay of the Empire he had founded, had been concurrent with his own.

At the moment of the loss of America, Old England, at the close of her most brilliant Century, appeared to be descending into a valley of humiliation. When the heart of her foremost statesman broke, he might well have thought that what his genius had planted was never to be reaped. To no purpose, it seemed, under his guidance had England spent her sacrifices, he his labours, and Wolfe his heroic life. The voice once potent in England's Councils, now feebly lifted against an inevitable result, was silenced

in the act, by the premonitory finger of Death.

There was a pathos in the event like that which invests a Greek tragedy. We seem to see the great figure, that History presents to us, crowned with deserved veneration and renown, contending blindly and in vain against some fatal Power, that secretly makes sport of the utmost greatness of human intellect and will.

It was not vouchsafed to Chatham to know that the blood and labor of the Conquest were not to be in vain: that the blow which fell upon the ancient Empire, which the nations of the old world looked upon as the humiliation and defeat of a nation, was only the fall of a System.

Contemporaries could not foresee that within a century the New Empire was to possess American Colonies, more populous, more wealthy and loyal than the

thirteen colonies in 1774: and that in the Imperial Crown there should shine other jewels—brilliant with equal promise—gathered from a new continent in the Antipodes.

Still less could any one then anticipate that the treasure of ideas, which is the true strength and glory of England and her civilization, was to be returned, multiplied, into her bosom, in *consequence* of an apparently fatal disruption of her strength.

There was a moment, in 1778, when the King, alarmed into reasonableness by the news of the French alliance, was on the point of taking counsel of the Earl of Chatham. Conjecture has dwelt upon the policy which Chatham, with the concurrence of Lord Shelburne, had prepared himself to recommend. They seem to have intended to repeal at one stroke all the vexatious legislation that had

estranged England from her colonies. They would then have withdrawn the troops, and offered a treaty, leaving to the United Colonies a degree of independence, resembling "that practically complete liberty which is now enjoyed by the Canadian Confederation."*

It is questionable whether the ancient vessel was fit to receive this new wine. The full-grown liberty of the great Colonies of to-day, their close approach to community in a full citizenship (sooner or later destined to be made complete) is dependent less upon the provisions of modern statutes, or the letter of Constitutions, than upon the modernized spirit in which such instruments are now administered. A tendency towards mutual forbearance and justice rules on both sides of the Atlantic at the present day. It is seen animating the acts and speech

*Life of Lord Shelburne, Vol. III., p. 28.

of Governments, press and people. In the 18th century that modern spirit had yet to await its slow and painful birth.

Sometimes, in an apparent perversity of events, there is a good fortune which surpasses the wisest foresight of statesmen. What might have been the effects upon history, had the conciliatory views of the most liberal Englishmen of that period prevailed? It is an open question whether, had the dream of a vast united Empire been prematurely accomplished, the continued possession of great and distant Colonies, even on the most friendly terms, might not have evilly influenced the English system of government, in the stage through which it was passing in the Eighteenth Century. English political tendencies, even the moral character of the race, might possibly have received a false turn, whereby the whole course of modern civilization

would have been (one knows not how seriously) retarded.

Constitutional liberty, as some English Liberals even then discerned, had more to fear from the subjugation of the Colonies than from their independence. There might have been something to dread from spontaneous loyalty, not less than from compulsory dependence. As reverence for the person of royalty is often found, in modern times, more intense the greater the distance from the throne, so it seems to have been in the Eighteenth Century. No fact is clearer than that, until estrangement had gone very far, the King, not the Parliament, was the object of American loyalty. It accords, not only with sentiment, but with the logic of our constitution, that the Throne should be the link to which colonial allegiance is attached. To the King, the Colonies first appealed against the unjust

usurpations of Parliament. Their theory of allegiance joined with loyal sentiment to inspire that resort. Had the appeal been listened to, and had the sentiment of the Colonists been skilfully handled, the theory also might have been gradually fortified, to a point perilous to their and our constitutional freedom: and in a manner hostile to our modern ideals of civilization. The Constitution, yet ill-defined as it was in the Eighteenth Century, left room for the personal element in allegiance, under favoring circumstances, to become unduly magnified. Favoring circumstances were not wanting. An abler King, politic as well as militant, would have known how to flatter the aggressive aspirations never absent from border Provinces of a great Power. Might not History, in that case, have seen the inhabitants of the Colonial Empire converted into enthusiastic sup-

porters of the doctrine of a real Royal authority?

Americans of that generation possessed their full measure of the haughty and grasping spirit that animated the old Empire. While Trade-hunger was fastening itself upon insular England, the original Earth-hunger of the Elizabethan adventurers prevailed in Virginia and New England. Always far in advance of the tide of conquest, rolled the wave of speculation, towards the far wilderness of the West. Long before the Seven Years' War, expectant hands had been laid on the Ohio Valley. Companies were formed to divide its fertile lands, while they were yet in the possession of France. It was a national contagion:—Franklin and Washington themselves shared it.

Foreign possessions, left by the Treaty of Paris to France, and by the Treaty of

Utrecht to Spain, remained to keep the flame alive. Those neighbouring territories, in the hands of weaker alien powers, would have stimulated the same incessant aggressions, of which, for a century past, the Indians and their Reserves have been the miserable objects.

Thus, had the Empire continued unbroken, it is not inconceivable that a warlike monarch, asserting the prerogative as a shield against Parliamentary exactions on the one hand, and as a rallying point for Colonial ambition on the other, might have set one part of his dominions against the other, and at least for a time, checked the growth of the constitution. Our united race might have been diverted from the pacific paths of internal development, into a corrupting and unrighteous career of sanguinary glory.

It may have been happy, therefore,

for the Colonies that separated, for those that remained and for the world, that England, in a critical period, when the mould of her plastic constitution was still unset, had not a Henry the Fifth in the place of George the Third: or that George the Third had no Richelieu among his advisers.

By the bitter instrumentality of the war of American Independence, the unfinished contention between Crown and people was settled forever in favor of the nation. Prerogative government, which might have continued to consolidate itself in the quiet corruptions of a period of peace, became fatally discredited in the course of the test which the purblind policy and miserable conduct of the American war supplied.

The destruction of the old haughty imperial theory, with its spirit of militarism and its love of monopoly, was a step

equally necessary to the process of modernization. That overthrow the violent separation of the great American colonies effectually accomplished, by once for all making the ancient system hopeless and impossible.

I think that the somewhat favorite attitude of modern Englishmen, of apologetic amends over the events of that period, falls short of meeting the full justice of the case. The Revolution is a matter less for oblivion than for gratitude. Both nations may join in canonizing the victims of that cruel struggle, martyrs to the welfare of the English race. The independence of the first Colonies was a step towards a wider development, which has become parallel to, and is destined hereafter to be not less great than their own.

The members of the Congress of 1776,

by their courageous persistence, and those who fell in support of the Declaration of Independence, unwittingly were not acting on their own behalf alone, nor only for the benefit of the thirteen older Colonies, but for an immeasurable brotherhood, yet to be born, inheritors of the English name and ideas, in many places and for untold time.

None the less is civil war an evil remedy, although great evils seem to have made it a neccessity. Seldom do the richest harvests, gathered from the blood-stained field, wholly obliterate the marks of ravage. The mournful fate of the American Loyalists would be sufficient to throw a shadow over the history of the great Separation. To some extent that fate befell not merely a party but a class. In the American as in the French Revolution, only in less degree, to the fury of civil war were added

some of the harsh features of Social Revolution.

In the earliest stage of the outbreak, a monstrous and ill-judged act of the Royal Government, intended as a penal measure, partly revoked Massachusetts' colonial charter. An anarchy followed. Executive Government was suspended. Courts and magistrates had lost their power. In the absence of law, the chief losers were those who had previously enjoyed authority, whether derived from official position, or from possession of property and influence. Their helplessness was the opportunity of those worst elements, existing in every society, and always ready, on the restraints of law being removed, to become resolved into a destructive mob. The pure stream of patriotic passion was fouled by the turbulent currents that mingled themselves with it. In a widespread carnival of pillage and wrong it

would probably be hard to distinguish how often mere envy of local social eminence, or the desire of plunder, wore the mask of zeal for the Cause. In 1789, a French Count was presumably an "Enemy of the People;" and it fared with the local magnates in the colonies much as it was to fare with the noblesse in the following European revolution. Official antecedents, or even mere local prominence, caused the village squires of Massachusetts and New York to fall under suspicion of Toryism. Suspicion, a mob being the judge, is usually followed by summary conviction, with ruinous penalties. Houses were despoiled, wrecked, or burnt. The supposed Loyalists were maltreated, threatened, exiled, if not murdered. Those who had formerly governed, through the destruction of legal government, were thus themselves made the victims of a rude species of

outlawry.* With the success of the Revolution ruin became a common portion, both of those who had fled and of those who had resisted. Confiscation and exile were the invariable sentence.

Peace brought no restitution nor even a genuine amnesty. Lord Shelburne has been charged with a base abandonment of the loyalists in the Treaty: but, hard as was their fate, that accusation, I think, is without reasonable foundation.

Lord Shelburne struggled long and zealously to secure the reestablishment of the loyalists, or compensation for their losses. But the endeavour was in fact predestined to failure.

Besides the numbers that had taken part directly in the countless obscure crimes of the levelling Saturnalia, the

*A frank and painfully interesting summary of this wide-spread procedure is very fully set forth by Dr. Ellis in Winsor's History, vol. vii., p. 185, *et seq.*

whole community as a body had become interested in those and the later confiscations. The disposition of the forfeited estates necessarily put no small part of the people in an attitude towards the expelled Loyalists resembling that of the French peasantry towards the cloud of *emigrès* hovering on the borders of their Republic: or like the attitude of the lately enriched favourites of Henry VIII., towards the restoration of Romanism and the monasteries.

Lord Shelburne's arguments were not only opposed to irreconcilable interests and feelings, but, I venture to think, were even wanting in logical justice.

At the time of the peace negotiations, Great Britain was not retiring as from a conquered country. Two portions of a once united nation had agreed to end, upon the footing of an international separation, a bitter internecine war, which

(it was acknowledged on both sides), it had become a fruitless and wicked folly to protract. In the course of the past war, both sides had partizans, both had inflicted terrible injuries upon each other. But neither nation was in the position of a victor in the war, entitled to prescribe restitutions or exact indemnities. With perfect reason, against the spoliation and misery of the unfortunate loyalists, the Americans set-off the ravages of the Royal troops and their native partisans.

No restitution to the "loyalists,"—or supporters of the Mother Country,—without like compensation to the "patriots," was the position of the American negotiators. The prevailing majority in America, it appears to me, offered their unsuccessful adversary a fair election. Let both parties to the contest, it was said, take a joint account of injuries and losses: or let

each assume, and compensate for itself, the losses of its own partizans. The Government of Great Britain chose the latter alternative: and for the purpose of an effectual settlement there would seem to have been no more rational course. The election, indeed, was made with a certain qualification. Concessions to the loyalists, it seemed to be hoped, might be made voluntarily by the individual State Governments. The treaty as signed bore an undertaking that Congress would earnestly recommend this course to the States. But the negotiators of Congress disclaimed any power of Congress to bind the separate States; and the clause simply amounted to a claim on one side and an admission on the other, of the moral duty of shewing mercy to the vanquished, and of making restitution to the wronged.

The concessions, which Congress rather faintly than "earnestly" asked of the in-

dividual States, neither their broken finances nor the feelings of their citizens permitted. Savage with the long miseries of the war, they were not in the humour for generosity, particularly to those who had been active in the hostilities, perhaps in the atrocities of the war. Even that the former loyalists should revisit their homes in peace, if it was not prohibited by state policy, was impossible in consequence of the sentiments of former neighbours.

Long after the Royal Government had doled out an incomplete and tardy compensation to its ruined and expelled supporters (to some by money, offices and pensions, to some by lands in Nova Scotia and Upper Canada), the current of hatred against the Tories continued to flow in the United States.

Let the fury of our own Canadian Tories over the Rebellion Losses Bill,

following the local insurrectionary movement of 1837, afford us a type of the feeling of the victorious party in the earlier and greater contest in the States.

Brief and almost bloodless were our own troubles. The cause of the Canadian Patriots, worsted in the field, was shortly afterwards vindicated by the victory of their policy in the Legislature. The movement resulted in the accomplishment of valuable constitutional reforms; of which the insurrectionists had been led too hastily to despair. Yet when the new Provincial Parliament, with its new and liberalized functions granted by the Home Government as the result of the movement, voted compensation for property destroyed in the struggle, without nice reference to the sympathies of the losers, the vote aroused the Tory party to an embittered and desperate resistance. They even went the length of

riotous violence. The ruins of the Parliament Buildings at Montreal stood for many years, a monument of the Rebellion Losses Bill, and a witness to the inextinguishable passions resulting from civil war.

The ill-requited sufferings of the loyalists were not the only unhappy or lasting consequence incidental to the great Separation.

The lapse of a century has confirmed but too faithfully a prediction uttered by Washington in 1774:—that if the constitutional issue between the Mother Country and the Colonies was forced to the test of arms, the war would be the bloodiest North America had ever known: and that Time itself would not eradicate the remembrance of it.*

May we not find, in the circumstance

* Irving's Life of Washington, Vol. II., p. 407.

that America was the unhappy theatre of the war, a partial reason for a fact which frequently excites the surprise of foreign observers:—that persistency in the United States of traces of national rancor and jealousy, so long after similar feelings have completely died away in England?

Fearful must have been the destruction of property as well as of lives in the revolted colonies, incident to the process of mutual harrying that had been going on in so many localities. With the imperfect discipline — often the deliberate savagery of the times, even the regular warfare, so widely extended, could not but be ruinous to the country traversed. The marches and counter-marches of the armies probably approached in their effects that destroying progress of Sherman, which pierced the heart of the Confederacy with a desolating and fatal wound.

The army that, on the conclusion of peace, retires from a foreign soil, bequeaths but faint recollections of the war to another generation. But the footprints of the invader are in the land he has quitted. The whole geography of the old Colonies, at the close of the Revolutionary war, was studded with the scenes of its sad events. The chief towns had been in hostile occupation. In every part of the country the memory was harrowed by the tale of some of the minor tragedies of war. Local tradition continued to point to spots where the quiet home had been ruined, where patriotism had been called on to make its sacrifice.

After seven years of misery the condition of many of the States must have resembled that of the border States at the close of the recent civil war. The condition may have been worse in a degree cor-

responding to the difference between the modes of warfare prevailing in the one period and the other. As we read of atrocities which were commonplaces of warfare, in those bygone and troubled times, we are impressed with the effect that an interval of continuous peace seems to have had, not only upon prosperity, but upon character. (It may also help us to appreciate the responsibility of those "Jingo" politicians, on either side, who, by their advice, would lightly undo that inherited labor of time.) Recollections of the campaigns of 1812-13, handed down on both sides of the frontier, shew to how late a date houseburning and systematic devastation seem to have continued to be regarded as a part of regular warfare. Between the generation of the former and the generation of the recent civil war on this continent, a long interval had been devoted to civilized order

and prosperity. From 1815 to 1860 only the remote Mexican and Indian wars interrupted the peace of the United States. But the generation of the Revolution had been brought up in the midst of the Seven Years War with France. It had been familiar, on both sides of the Atlantic, with traditions of passion and bloodshed, going back almost uninterruptedly through an hundred years. Regulars, Tories and Patriots had been trained in a ruthless school They turned the same arms on each other which had wrought the devastation on the St. Lawrence, less than twenty years before. A series of cruel and wanton ravages on every inoffensive settlement, from the Gulf of St. Lawrence to the Island of Orleans, preceded the siege of Quebec. Those acts were the work of the Provincial auxiliaries, acting under orders from Wolfe himself.* Every accessible ham-

*Parkman: Wolfe and Montcalm.

Jet along that peaceful coast was visited by the marauders.—and many a church and little homestead, with its poor accumulations of peasant toil, was consigned to flames.

In one of his delightful collection of Canadian tales a learned native author has embalmed for us, in genial fancy, the feelings that yet attend the recollection of those events on the St. Lawrence.* On the seaward horizon in the Baie of Chaleurs there is occasionally observed a peculiar lurid light, to which imagination can give the form of a ship in flames. Among the simple peasantry of the locality, superstition assists imagination, and connects the spectacle with the devastations of 1759. In the midst of the flames the *habitant* discerns the English ships, and their wicked crews.

*Dr. Taché, *Forestiers et Voyageurs*; Cadieux & Deronne, Montreal.

The descendants of the sufferers console themselves with the sign that the foreign marauders of those evil times are suffering the justice of God.*

Thus down to our own times, among the simple *habitants* of the beautiful coasts of the lower St. Lawrence, is preserved the story of ancient wrongs, long forgotten by the descendants of the Massachusetts volunteers, who inflicted them. So indelible is the local tradition of the injuries of war. Prejudice, sown at the firesides of a whole people, becomes like an evil weed: Time itself seems powerless to extirpate it.

The sincerest believer in popular right and in historic progress may pause for a

*To quote the quaint and unflattering local idiom of Dr. Taché's *habitant*: "Moi, je suis de l'avis *il y a, du goddam* la dedans." To the *habitant* our heretic race is recognizable most readily, alas! by the frequency of the favourite expletive.

moment over another question. Has the principle of popular representative government, in its universal triumph, yet proved itself to be the child of perfect wisdom, or a more certain parent of virtue than the system it supplanted?

Reflective observers cannot share the unqualified enthusiasm, (neither altogether philosophic nor altogether philanthropic) of that school of writers, to which the author of "Triumphant Democracy" belongs.

The shadow of Despotism still rests upon the fair land of freedom. It has been shifted but not removed, as when the journeying sun reverses the shadows of the mountains. Whereas formerly it was cast from the side of Monarchy, now it falls—not less dense, but more ignoble,—from the towering form of Party.

Representative Government is still in process of evolution, and the present is

one of its periods of transition. A system conceived in a little island, at a time when the electorate consisted in great measure of a compact oligarchy of landowners and yeomanry, has come to be applied to wide areas and vast and complex populations. Organization having become indispensable, as a means of securing agreement in policy and continuity of administration, it has grown up in the form of Party. It is not strange that so huge a machine has proved itself apt to become the master: that the means has tended to become an end.

The growth of the party machine to its Jugernaut proportions in modern times is a phenomenon that belongs to the great States and larger common interests of modern times. We hear little of it in Switzerland. We hear more of it in England with her larger

territory—particularly since the modern extension of her franchise. We see its working pretty well developed in Canada, where, while the population is less, its geographical distribution is still wider. But the system towers most conspicuously of all over the United States, with a prominence proportioned to the most numerous and most widespread electorate in the world. Whether the object be to obtain office or to bring about or defend a policy in legislation, comparatively nothing can be effected under a representative government, without organization. To nominate and elect an administrator, to agitate a measure or a policy, a party must be formed. Forming parties becomes a work of more labour and longer time as the electorate increases in numbers, diversity, and extent of geographical distribution. In a country like the United States a new

party cannot be formed for every new measure or to contest every election. As new interests develop fresh questions, it is more convenient and more effectual to enlist an existing party to the advocacy than to organize an independent one. On their part the old bottles are always ready to receive the new wine. Comrades in party war develop a kind of loyalty to the persons of the party leaders, and are loath to admit the necessity of disbanding when the original objects of the combination have been attained. The name originally adopted by the party gradually dis-associates itself from any particular principles. It becomes a more corporate title, giving outward continuity to a perpetual succession of membership, of managers, and of interests. The keeping of the organization together unconsciously becomes in the minds of its

constituents an object of itself. The party leaders become professionals, and like the roving Condottieri of the Middle Ages, go about seeking fresh occupation to maintain the disciplined band.

The variety and contradiction of the public objects of Government at once contributes to the corruption of political parties and facilitates their mastery over the public. Seldom does every adherent of a party approve its whole policy. He supports it on account of some one man, some one measure, or interest, for whose sake he is willing to subordinate other considerations, and too often thinks it necessary to wink at the worst offences. Hence arises the political power of the *Clan.*

Wherever a class of people exists, distinguished less by their feeling of citizenship than by some interest or object which forces them into a class or combination:—whether they belong to an

industrial class, ill-educated and easily misled· whether they have selfish pecuniary interests capable of being advanced by the Government: whether they be formed into a clan by foreign origin, language or religion,—in all cases the Clan becomes a weighty factor in political contests, courted by each party.

Thus, Party may boast, modern democratic government has been purged from a certain lingering aristocratic inconsistency. Even with the fathers of the American Constitution Democracy was only a means to a higher object. While in form they were conferring all power and suffrage on the people indiscriminately, they constantly avowed the expectation that the result would be a Government of *the best*: that the wisest, the most far-seeing, the most honest and patriotic would prevail at the elections over the ignorant, the self-seeking and the in-

judicious. Thus Democracy was the means, while an Aristocracy was the end. This is a dream of the past. The whole art of modern statesmanship seems to consist in inducing the best and most right-minded citizens to subordinate their convictions and feelings of right, in order to conciliate others who are not as good men or as patriotic or intelligent citizens as themselves. The standards of patriotic honour and private morality are lowered on entering the gate of politics.

This at its present stage of development is the form of free government which now flourishes almost equally in the United States, in Great Britain and her colonies, and amongst European imitators of free constitutions. It is Government of the people, by the parties, for the clans.

In the United States the system shows its fruits most conspicuously. Allowing for the vastness of its territory, for the

great number of its diverse sectional interests, and for its being a great reservoir of alien immigration: must we not trace the consequence more than all to the fatal disease of modern politics: to the more inveterate prevalence in the United States of the fashion of subordinating honour to expediency in public life? A curious historical speculation suggest itself. Perhaps the Nemesis that watches over the passions of nations, and sometimes seems to avenge the excesses of victory, did not altogether overlook the sufferings of the loyalists. Perhaps the very cause of freedom and constitutional government, which the Revolutionary war helped to establish, has not escaped some permanent evil consequences from the violence of that period.

The misfortunes which deprived the American loyalists of their native homes profited Canada. The young Province

of Upper Canada became peopled from some of the worthiest stocks in the United States. Bearing with them the precious fire of their inextinguishable loyalty, as their only possession, out of a land where they had been in enjoyment of fortune and luxury, they set themselves to meet the hardships of a new existence in the wilderness. When even thence, from half-hewn farms and rude settlements, the sound of war was to recall them, to defend the frontiers of their new home, the determined vigor that met the invasion of 1812 was destined to testify once more to the undying spirit of the exiles of 1783.

Did Canada gain so much without any corresponding harm to the United States? Did the sudden excision of such a class, as an element in the social organization, inflict no sensible loss (moral, if not material) upon the young

civilization, just entering upon a career of vast material and political expansion?

When Spain and France at length succeeded in extirpating the Huguenots, a certain strain of character almost disappeared from those countries with the process. So in French Canada: where the conquerors allowed an election to the inhabitants to retire to France, if they were unwilling to forswear their native allegiance and become British subjects. The Province lost in the quality more than in the quantity of the consequent emigration. Those that took advantage of the permission were the able and courageous, the most spirited, prosperous and enterprising settlers. French Canadian character has ever since lacked commercial enterprise, courage and initiative. It is possible that whatever of those qualities had survived the meddlesome and restric-

tive regime of the French monarchy, was taken away with the emigrants of 1760.

In like manner when the loyalists were driven in a body from the United States it would be natural to look for some disturbance of balance, to follow upon the displacement in so many localities of what had, not unworthily, formed a leading element in the social organization.

The expatriations from the States in consequence of the Revolution, may be compared to the exodus of patriotic French from Canada after the conquest of 1760. The resemblance is less in the cause, than in the consequences of the emigration. One was compulsory while the other was voluntary. But both countries were denuded of much the same relative social element; and both,

I think, have been permanently affected by the loss.

Do observers discern anything to be wanting, conspicuously and remarkably, to the United States, in the midst of their abundance of natural resources, their great riches of intelligence, activity and courage?

The people of the United States are derived from the best human stock, endowed with a great record for character and self-respect. Every generation has been thoroughly instructed in the knowledge of Protestant morality. As a mass they are educated above the average of nations. Prosperity and wealth have accumulated opportunities of leisure and cultivation, almost beyond the lot of older countries. In the literature, native and inherited, to which the people have access, they have constantly before them

the noblest standards of conduct, the highest possible ideals of character. They have hosts of writers of the first order, and statesmen that in natural ability and personal character rank with the best average in the world.

In their public capacity, their acts as a nation, do Americans follow their own private standards? Rather do they not as a rule openly discard them?

Is there any other population which, possessed in private of such high qualifications, in its *National* actions so often conspicuously disregards, or rather despises, the accepted moral rules and restraints affecting public conduct?

Fresh in the remembrance of the present generation is a series of events, some so recent, so notorious and so obvious as expressions of contempt for international law, and for the unwritten

rules of national dignity, that it cannot be necessary to refer to them by more specific mention. In case after case, before the tribunal of the civilized world, "Triumphant Democracy" stands arraigned of these things. Though convicted, it is not made ashamed. Actions of the government, condoned or approved by the American Nation, seem to imply a belief that the nation can afford to be careless of standards of conduct, and of the public opinion of the world: because the public opinion of the world carries with it no material penalties as against the people of the United States. "What do we care for abroad," is a phrase that expresses truly, if ungrammatically, a very common feeling. I think what most surprises the observers of other nations is this fact. It has an influence abroad. It strengthens the opponents of Republican Government and disarms its friends.

The rights claimed by the United States as sovereign of Alaska over Behring's Sea, which must be admitted to be at least dubious, have been suddenly asserted in a violent manner: and from what motive?

I only repeat the uncontradicted statements of respectable members of the American press, when I charge that these two mighty nations have been long kept in a state of mutual ill-will, even upon the verge of an awful war, less because any American statesman or jurist regards those obscure claims to be duly established, than in submission to the dictation of one of those overbearing private corporations that are the standing peril to American liberty. It is said that the extension of an enormous monopoly was exacted as the price of contributions to party campaign funds. A high-handed course has been supported by a

specious contention, raised rather *ex post facto*, for the interest of mankind in preserving the race of seals from reckless destruction. That subject is well worthy of the consideration of an International Conference. But that Conference has not been called: perhaps because the claim is known to be not *bona fide*: perhaps because it is suspected that such a ground could not be laid for the extension of American control over Pacific sealers without, upon the same argument, and for the same purposes, admitting a like extension of *Canadian* jurisdiction over Atlantic fishermen. (Were a conference fairly and honourably called, the argument from expediency might prove to be, on the Atlantic as well as on the Pacific, in favour of the enlargement rather than the narrowing of the rules of maritime jurisdiction. Modern scientific experience is gradually demonstrating the wisdom of treating fish, not

more, but much less as creatures *ferœ naturæ*. They ought rather to be made the objects of a kind of farming Unless their existence is protected and their multiplication specially encouraged, it seems that mankind may have to ultimately deplore the complete extinction of this invaluable source of human food. This kind of farming requires expensive protection, an investment, as it were, in long-time improvements. The farming of the sea, like the farming of land, may possibly be better carried on under a system of settled ownership than by treating such pursuits as a right of common.)

As if some spark from the perfervid patriotism of Revolutionary France had leaped across the Atlantic, and found an early lodgment in the American mind, national wrongdoing, it seems to be believed, may be defended without guilt and condoned without retribution. The

conscience of individuals is soothed by a delusive distinction between the moralities of public and private life. Liberal and enlightened Americans seem capable of believing that a nation may be a gainer even by an aggrandizement or advantage that hinders the progress of the principles of civilization and humanity.

Statesmen of the English Empire and of the kindred Republic are equally convinced that another war between these two halves of the common people would be a calamity of unprecedented horror and of uncertain result. Both knowing that it is not to be invited except in the gravest and most inevitable extremity, the younger and the less civilized of the two governments (must we not so distinguish?) seems continually to bargain upon this knowledge, to impose to the last moment upon the superior forbearance of the other.

(Patience is the wisdom of a rising power whose strength lies in the promise of the future. In the hour of its disadvantage it can afford to suffer long, because it knows that it will not be obliged to suffer always. American politicians seem not unwilling to infuse the youthful blood of an influential member of a growing Empire with the poison of injury and resentment. They are careless if they cause a young nation at their side to inscribe upon the portals of its history the motto of the Chien D'Or:—that famous legend that used to greet the passenger as he ascended through the Prescott Gate into the streets of Old Quebec:

> Je suis un chien qui ronge l'os,
> Et en rongeant je prends mon repos:
> Un temps viendra qui n' est pas venu,
> Quand je mordrai lui qui m'a mordu.)

When a late President, in the midst of

a recent Presidential election, reversing his course in an instant upon an international question, reckless of discrediting his plenipotentiaries and stultifying his supporters, issued a proclamation against the Canadian people, filled with unsupported charges and violent threats, Popular Government lost some honour from that unexpected and conspicuous fall of a man, who had promised to revive the lost tradition of highminded statesmanship. Not only in Canada and Great Britain, but in Continental Europe, the Press, with humiliating unanimity, traced the attack to its real motive. But among his own party the reckless attempt to win the vote of an alien and most unpatriotic faction by an unjust attack upon a neighbouring and kindred people seemed to excite no generous reprobation.

Canadians, though they were unterrified,

felt the wound. Citizens of a young country, not yet, indeed, fully admitted to the family of nations, but becoming known (not unfavorably) to the world, believing that a career was before them, they felt that as a people they had rights in their character.

The immense, almost unprecedented, task has been imposed on this people, of fanning, in Provinces scattered over half a continent, the generous fire of a united nationality. In that task they are facing a most arduous struggle against difficulties and obstacles almost unprecedented — obstacles geographical and commercial, differences of race, language and religion. These obstacles, these prospective struggles, Canadians are facing, as a young nation should, resolutely and hopefully, undeceived but undismayed.

They seem to be set as a people in the

vanguard of a Continental struggle, supposed to have been settled one hundred and thirty years ago; but that seems to be once more reviving. It is an opposition not merely between two races or languages, but rather between inconsistent philosophies, and ideals of civilization; a conflict of consciences and convictions; a *majority* of one race inclining to one direction in its theories of government, while a *majority*, but not all, of the other race leans as conscientiously to the contrary side. The same habit of mind which develops Freedom seems to have everywhere developed Protestantism. While we of English speech and traditions trust and hope that ultimately victory will rest with that political philosophy which we inherit in common with our brethren in the United States, the priesthood of Lower Canada are, no doubt, right in using every effort to restrict their people

from infancy to the distinct language, which keeps them alien and separate from the literature, thought and civilization of this continent. Is there not everything in the situation of such a nation to claim for it the generous sympathy of a neighbouring government, secure in its established greatness, and for the time, at least, rejoicing in untroubled unity? A nation jealous for its own dignity, careful of real and common interests, would be found scrupulously reluctant to take advantage at such an hour, of its young neighbour.

Is this the spirit we are witnessing?

Americans cannot discharge upon the Irish the whole guilt of degrading free government. Which is responsible, the helpless tool, or the intelligent hand that wields it? The great leaders of parties, the party organizers, are native Americans. It is native Presidents and native Senators who often are first to strike

the key, and who only are in a position to take up the note, given to their foreign followers.

American politicians have run up a score with the Irish in America which the American people is left to pay. The peasant from the wild hills and moors of Ireland, landing, often well meaning, but uninstructed, in the land of universal suffrage, was entitled to claim the best advice, the honest leadership of the intelligent native citizens of his new country. He looked to them to teach him the spirit and objects of free government. He expected to find them holding up true standards of public morality. He was in a political sense the ward of the American people. How have the guardians of his political minority executed their trust? How have they enlightened his ignorance?" Have not the leaders of all parties by common

consent pounced upon him as their appropriate prey? Have not they taught him the lesson of political insincerity,—flattered his passions, cultivated his imported quarrels, and invited him to organise for selfish purposes, under the leadership of the basest of his compatriots?

Party, upon which it is customary to charge all offences, is not inherently depraved. Its vices are rather like those pestilential organisms which (modern science declares) only take hold of constitutions which some previous taint or weakness in the blood has prepared for their reception. Public opinion sets limits to the baseness of politicians; and the license allowed their worst excesses in the United States is attributable less to the indifference of a particular class to politics than to a general insensibility to *public* honor. We return to the question with which we set out. How have such

practices arisen among such a people? How are we to account for so unworthy a product from so promising a soil?

There is no necessary connection between Republicanism, or the doctrine of equality, and the degradation of public life. Why this subversion, by a highly civilized and educated people, of all rules and maxims of honour and morality, in the actions of their State?

How have American politicians,—individually often the most respectable of men,—become perhaps the most abject in the world in their prostration before base influences? Why, among such a people, is the notoriety of power thought to be worth winning at the expense of its honor? Why has repudiation of public debts at one time, contempt of duties and engagements to neighbouring nations, in matters small and great, in later times, come so near

being reduced to a principle of public action?

The solution of an apparent paradox may be approached by remembering that a State is not a mere aggregate of its individuals. A State is itself an organism. Its structure and character as a whole do not necessarily reproduce the form or functions of the constituent atoms. The public character of a state depends upon the *fashion* in these matters cultivated by its public men. The mind of a body politic is expressed through corporate machinery. It is formed by speeches on platforms, by the acts and resolutions of official assemblies, by accepted maxims and courses of policy. When private consciences are overruled by prevailing traditions peculiar to public life, a character may be given to the action of the nation quite at variance

with the average *private* character of its citizens.

Are we not justified in saying that *as a rule of public conduct*, the sentiment of honour seems to be *out of fashion* in the United States? Is it altogether fanciful to trace in the tendencies of the Nineteenth century, in this respect, a continuing consequence of the confiscations, the wholesale banishments, the social upheaval, of the Eighteenth century?

Trampling upon that which has been respected is a perilous pastime. Virtue itself may be made unpopular by association; and where sentiments have been linked, in the mind of a community, with a class, it is possible for one to go out of vogue with the other.

Closely connected with social rank and the pride of station is often found that worthier pride, of honour. Loyalty and Reverence: Reverence and Honour, are

twins, sprung from the same root. *Loyalty* was the offence of the opponents of the Revolution: and their unshakable obedience to convictions, that *superstition* of public right and duty, became the object of universal anger and contempt.* The hatred and disrepute that attached to the Loyalists were visited not only upon them, but upon the class to which they belonged, the station from which they fell and the principles which had distinguished them. Extravagant exaltation of an ultra-democratic habit of mind became a sequence of the Revolution. A broader conception of loyalty fell before the narrowness of a local patriotism. It was a retrogression from idealism towards a less generous individualism. In that respect Humanism, while it gained much by the Revolution, lost some ground, which it is still labouring to recover. The

*Dr. Ellis, Winsor's Nar. Crit. Hist., Vol. vii., p. 186.

Declaration of Independence, that breach with an ancient constitution and allegiance (admirable as a test of force and courage, under a deplorable necessity imposed by circumstances) has been glorified as if disruption were an act of abstract virtue. Such was the spirit which set a fashion, while the nation was yet young, to generations of public speakers and writers. The antique school of statesmanship, upheld by the influence of Washington, expired after Washington left the scene. Perhaps the Father of his Country retired none too soon, to escape a demonstration of the ingratitude of Republics. There were signs that the Democracy was becoming impatient of the strain of what its modern spokesmen would term "swallow tailed" politics. After Washington soon appeared Clay, prepared, like Napoleon III., to make War itself a cast in the game of party and power.

After Clay was to come Jackson with the "Spoils theory." The era of Repudiation soon followed.

For one moment, the victory of the politician over public honour, the public interest, and Freedom, seemed to be threatened. In the great moral struggle with slavery, there was a reawakening of a national conscience. But as once more the moral developed into a physical struggle, during the intense pre-occupation of the four years war, and still more in the relaxation that followed that supreme effort, modern Demagogism recovered the lost advantage.

The "carpet-baggers," called into existence by the conquest of the South:—the great semi-corporate commercial interests created by the war tariff:—the labour organizers with their cries:—the Irish, under corrupt leaders and with foreign aims:—this series of great Clans mustered

to the assistance of the demagogue, and helped to achieve for him a confirmed, an almost indisputable sway.

Free Government suffers everywhere with the degradation it has suffered in the United States. The contagion of party dishonour, once generated, has been communicated to the political blood of all the nations of the English race. The evil fashion of the Caucus travels wherever, from vastness of territory or complexity of the national electorate, the Caucus has been made necessary.

Yet, if the worst tendencies in the public life of the United States are traceable in any degree to the treatment, in the beginnings of the Republic, of the class and the ideas of the class to which the Loyalists belonged: to the contempt for their ideals of fidelity and public duty, which it became the fashion of public

speakers and writers to cultivate: if we are witnessing the accomplishment of a historic vengeance—one of those sentences that Justice silently registers, and leaves to the certain processes of Time to carry into execution—it is not for any member of the English race to boast over his brethren's misfortunes. The responsibility for the social revolution, and for its consequences, does not rest altogether with the old colonists. It ascends to the authors of the Act of Parliament which, derogating from the charters, induced the conditions of anarchy that became the matrix of disorder. Looking at the possibility of those consequences, that deed appears as the most lasting wrong inflicted by the rulers of the old Empire on the former Colonies. The ancient evil system, on the point of expiring, was able to strike an envenomed wound into the heel that crushed it.

Speculative as are these reflections, is there not at least enough in what has been suggested, to admonish those youthful spirits within our own Empire, who discuss the severance by its nations of the ancient alliance and allegiance to their constitutional head, as if that were a light thing, and not a moral act attended with moral consequences?

One may use freedom in arraigning the vices of demagogue government, who—the grievousness of the evil once really appreciated, and the price of further concessions to its actuating spirit acknowledged,—is hopeful of a remedy. These are not bitter words, mere accusations of despair. The present condition of Free Government is, I have said, one of transition, not of decay. It is largely upon the *confusion of objects* placed before the electorate that the demagogue thrives. Hence, it is not far to a conclusion re-

garding the direction whence a remedy should be sought. In distinction and *simplification of electoral issues* lies the hope of reforming Popular Government. That something may be effected to this end, by a method that may also stay a widening separation, and contribute to a moral reunion of the branches of our English race, will, perhaps, be made to appear in a later part of this little work.

An explanation, perhaps a defence, may be necessary at this point, of the adoption, throughout these pages, of a sometimes resented use of the term "Americans" as a description of the citizens of the Great Republic. Canadians are inclined to protest that Canada is a part of North America; that the inhabitants of the United States are not entitled to appropriate to a nation a term that geographically belongs to the whole Continent. The neighboring people, however, have rather accepted, than arrogated to themselves, the appellation "Americans." Language, like law, must observe the maxim, *Stare decisis.* The present usage was already established in the eighteenth century. Long before the Revolution, in the literature and table talk of England, it had become customary to describe the inhabitants of the thirteen Colonies as the "Americans." The small original stock

of Englishmen, planted in the sixteenth and seventeenth centuries, and very slightly recruited by subsequent emigration from the Mother Country, had grown, in its isolation, to a population of over two millions. Religion, history, and distance combined to mark it as a distinct branch of the English people. The term "American" became as a descriptive term, just as it was usual to speak of the Scotch or Welsh. After the conquest of Canada, the inhabitants of North America, from Massachusetts to the Gulf of Mexico, divided themselves, to English minds, into two classes: the inhabitants of the original English Colonies, who had become "the Americans," and the alien inhabitants of conquered New France, who were known, not only in England, but to English-speaking settlers in Canada, as "the Canadians." When the Revolution was followed by the Treaty of Independence, the English who had been known as the Americans, continued to be so distinguished. In the debates in Parliament on the Treaty of 1783, Lord Shelburne declared that his intention was "to make peace with the Americans."

The country of "the Americans" became "America," and the country of "the Canadians" Canada. These historical facts are more conclusive than official usage or the practice of map-makers.

Even as we look on the map the suggestion presents itself that the great Gulf of St. Lawrence, with its tributary waters, stretching in a broad, dividing band, half way to the Pacific, with marked climatic and political consequences, might well affect the nomenclature of the Continent: in a manner almost equivalent to the division into two Continents, which the Gulf of Mexico effects at the South.

Though the ideal of Richelieu, happily, has not been accomplished, and Canada no longer is the exclusive home of a single race, or of an alien civilization, still the northern half of the Continent tends apparently to develop a more or less distinct people.

If statesmen learn more and more to expunge the name "British *America*" and write broadly over the vast region north of the Great Lakes, from the Atlantic to the Pacific, "*Canada*," side by side with the "United States of *America*," south of the great dividing line, convenience will commend the practice, while historical justice as well as political truth will confirm it.

Therefore Canadians, it seems to me, need not feel aggrieved over a surrender of the terms *Americans* and *America* to the great people to the South; if they find themselves, also, as a people, giving a name to a division of the world, instead of deriving a mere sub-title, from sharing the possession of a mis-named Continent.

Perhaps I may also be excused for preferring to use the term "the English race" in lieu of "the English-speaking race." The latter, while more awkward, seems to be hardly more correct. A German resident of America who enters into the spirit of English institutions, but does not adopt the English language, may be said to belong to that race, at least as much as the mountain Celt, who has acquired the language without appreciating the institutions.

II.

THE TREATY OF PARTITION.

If alike in Great Britain, in the new Colonial Empire, and the United States, ideas and constitutional forms now march together along the same parallels: if an incessant progress of liberalization has brought the principles of English Government, in all parts of the world, to one universal, consistent level of republicanism, the great process was smoothed, (and probably it was necessary that it should have been smoothed,) by such a Treaty as was made in 1783: granting to the now separated branch of the great people a concession almost of their utmost claims, and complete scope for their peaceful expansion and development. To the new nation it left nothing to demand:

to the old, no hope of recovering the concessions that had been granted.

The mind of a race thus effectually turned from the preoccupations of Militarism, its incessant intrigues and ambitions, its dreads and its rivalries, our united energies have been allowed to flow in modern and happier channels. Thus have they become a blessing to ourselves and a lesson of encouragement to the world.

It was to Lord Shelburne that Lord Chatham's death left the melancholy and unwilling duty of shaping the Treaty which was to give reality to the dread separation. It was a prospect from which, in former years, Lord Shelburne had recoiled, like the great Earl himself, with earnest, even impassioned abhorrence. To Lord Shelburne, and his contemporaries, the treaty of 1783 was merely the consummation of a melan-

choly procession of events. "The sun of England's greatness has set," he lamented. But Lord Shelburne did not forget, in face of the now inevitable event, that he belonged to a courageous nation. "Let us resolve," he exclaimed, "to improve the twilight, and prepare for the rising of England's sun again."

The words of the great liberal were prophetic. The shadows that seemed impenetrable in 1783, have proved to be cast before the rising of a more glorious and an enduring light, which already begins to illuminate the New Empire. It was, perhaps, such a future that Lord Shelburne vaguely hoped for, but certainly was far from foreseeing. Only to us, who reap its fruits, it begins to be apparent that the great original treaty,—which granted the independence of the United States, which led to their present prosperity, and which yet forms the ground

work of many of their rights,—also marks a turning point in the history of the English race. By it the Great West, the mighty make-weight that forever determined the balance of nations on this continent, was thrown into the scale of the United States. With it, also, the vexed history of the Fisheries begins. But it is crowned with a greater and more generous glory. Concurrently with it the ancient Empire of Great Britain, with its corrupt political system at home, its spirit of trade monopoly and oppression abroad, received a death blow. From the moment of that fall we date the birth of a new Empire,—our Empire of world-wide constitutionalism, holding forth, not menace and monopoly, but the promises of universal peace and civilization. Step by step we trace from that period, even under the surface of the revulsion caused by the French Revolution, a stimu-

lation of liberal tendencies in our Constitution, and a yet more marked liberalization in habits of thought, without which the modern Empire would have no existence.

From his place in the House of Representatives an American Congressman recently declared that his countrymen had never received full justice in their international negotiations with Great Britain. In his opinion, each one of the Treaties in its turn was an incomplete and grudging settlement of rightful claims of the Tnited States.

In marked opposition to the view expressed by the American politician, is the view of the same Treaties to which our own Canadian historians have always inclined:—being perhaps, in its own way, equally as narrow as the other.

Had he inquired across the border, the speaker would have found that Canadians,

for their part, have generally been brought up to look upon the all-important settlement of 1783, (especially with regard to the boundaries both in Maine and towards the Ohio and the Mississippi,) as having been weakly or negligently favourable to the United States.*

In contrast to many foregoing characterizations, on either side, and much more

*Not unlike (with allowance for the difference of national colouring) is the impression given in the recent "Popular History of America" edited by the late Mr. Wm. Cullen Bryant. Thus, in that voluminous work Mr. Bryant, vol. iv. p. 77, summarized the proceedings leading to the treaty. "The disagreements, though serious, were overcome by England's yielding on the more important points *to the determination* of the United States."

In the same spirit Dr. Hinsdale, in his "Old North West," rather ungraciously describes the great West as having been, by the result of this treaty, "*wrested* from England." The historian uses the same term as when in a previous chapter, he describes the same region as having been "*wrested* from France" by means of the Seven Years' War.

liberal than any of them, is that of Mr. Bancroft: when he says that the treaty, in its main features, was not a compromise, nor a compact imposed by force, "but a *free and perfect* and perpetual settlement."*

A still more recent American investigator confirms, if he does not amplify, these broad views of Mr. Bancroft. This writer is the Hon. John Jay, author of the chapter on this subject in the valuable series entitled "The Narrative and Critical History of America," edited by Mr. Justin Winsor, Librarian of Harvard College.†

Mr. Jay certainly uses striking language, producing an impression very much at

* History of America, Vol. v., p. 580, (last edition).

† The Hon. John Jay is a descendant of the American negotiator, and, as Minister to Austria, has been also his distinguished successor in the diplomatic service of his country.

variance with the notions popularly cultivated on either side of the boundary, regarding the great settlement in question. He frankly attributes the most important concessions in the treaty, less to any pressure the American negotiators were able to exert, than to a willing concurrence of the English Minister in certain liberal and far-seeing views of the future presented by Franklin and his colleagues.

After the acknowledgment of independence, the article conceding the Northwest boundaries was by far the most important in the treaty: and that concession the words quoted below, read literally, describe as if it had been a magnificent *bonus* deliberately cast into the peace settlement by the British Minister, of pure good-will.* To many, I think, it may be

* "However great," he writes, "the errors committed by England in the American struggle, it may always be remembered to her credit that, in the peace negotiations,

a novelty to look on the United States as to-day enjoying in their vast Western territories, not the fruit of a military or diplomatic victory, but practically a free and generous donation, bestowed by the mother country as a voluntary pledge of reconciliation, in the very moment of her reluctant parting with her offspring. To such readers, I believe, a review of the most modern restatement of the facts will prove that such language is only a frank and literal expression of the spirit in which the most remarkable clauses in that memorable treaty had their birth. The review perchance may tend in some

---

Shelburne, declining all temptations to a contrary course, *endowed* the Republic with the gigantic boundaries at the south, west and north, which determined its coming power and influence and its opportunities for good, and enabled it a little later peacefully to secure the magnificent territories of Orleans and that of Florida, and gradually to extend the blessings of American freedom and civilization throughout so large a part of the Western continent." Winsor's Narr. and Crit. Hist. of America, vol. vii., p. 50.

degree to more largely reproduce that spirit, both in the minds of those who now inherit the generous provisions of the treaty, and of those whom it has also in a measure, (though indirectly) benefitted.

Evidences are abundant and conspicuous that the circumstances that attended the negotiation of the Treaty of 1783, and its true spirit and motives, notwithstanding the revelations of American investigators, are still unknown and secret history to no small part of the public of this continent.

By a glance at the course of events of which the treaty was the culmination, at the relative positions of the two countries, and at some of the mutually beneficial consequences which have followed the Treaty, we may be assisted to a better comprehension of the motives of the actors in the negotiation, of the magnitude of the concessions, of the nature of those tempta-

tions to a contrary course to which Mr. Jay alludes,* and of the policy that would best fulfil the true intention of the great settlement.

The Treaty of 1783 probably was the greatest international convention in the history of mankind. In the magnitude of its territorial dispositions, in the importance and permanence of its political consequences, it may find a parallel only in the great Convention which parted Ancient Rome into an Empire of the East and an Empire of the West. The parallel is not closer in the measure than in the nature of the transaction. The treaty of 1783 was less a Treaty of Peace than an Agreement of Partition.

In the minds of the King and Parliament of Great Britain, the concession of independence to the Thirteen Colonies had been determined upon. But much more

* See note, pages 139, 140.

than this was necessary if it was desired to lay the foundations of a broad and permanent reconciliation between the old and the new nation.

In the words of an American writer, neither the Declaration of Independence nor the treaty with France contained any answer to the question, What is the extent of the thirteen States of America? "England might the day after the French treaties were signed, even the day after the Declaration was published, have conceded the Independence of the States in the very terms used in those documents, and still have left unsettled territorial questions, larger than the one which brought on the French and Indian war in 1754."*

The Colonies had declared that they would not be satisfied with establishing independence for their own inhabitants,

* Dr. Hinsdale, "The Old North-West," at page 164.

within their own boundaries. Their hopes extended beyond those limits, to East and to West, far over sea and land. They claimed to retain their right of fishing in all the northern gulfs, as a kind of perpetual easement, appurtenant to the soil of Massachusetts, over the sea coast of Canada, Acadia, and Newfoundland. At the same time they looked towards the vast West, and claimed its untrodden areas as their exclusive heritage.

The grounds for these magnificent pretensions of the thirteen colonies were moral and sentimental rather than legal.

The whole territory conquered from France, from the Banks of the Ohio to the St. Lawrence, had, in 1774, been lawfully formed into a separate Province, Canada. But the link of common allegiance was now to be severed, and new considerations arose. Should Canada, with its ancient fisheries and its vast territory, be parti-

tioned, or was it to remain intact within the British Empire. The question admitted of being answered from different points of view. Naturally the former colonies asserted a common interest with Great Britain in the fruits of the Conquest of 1760. The acquisition of the West, and the security of the fisheries had not been achieved by British arms alone; they had resulted from joint efforts and joint sacrifices.

But looked at as a question of political title, the answer must have been in favour of the sole right of the Imperial Crown.

The Colonies clearly had no claim, at least West of the Ohio, by virtue of actual settlement or improvement. Since the conquest, in defiance of the Royal Proclamation of 1763, certain irregular patents had been granted by the Royal Governor of Virginia. Notoriously issued in breach of instructions, and by a species of fraud (the

Patents were issued to nominees of the Governor in his own interest) these grants, invalid as they were, and the settlements founded on them, were confined to the east and south banks of the Ohio.* A claim was raised by military possession, but on grounds to which, as will hereafter be seen, the Americans' own allies refused to give any weight.

The pretensions of the thirteen Colonies to the Great West, on grounds of legal right, even a partial examiner must pronounce to have been altogether untenable. A mere confirmation of the Declaration of Independence, the basis upon which peace was to be made, could not affect territory that formed part of Canada. The parties to the Declaration of Inde-

* The settlements were not relevant to the boundaries assigned to Great Britain in the scheme which we shall find the French Minister secretly preparing. The territories offered to Great Britain by that scheme lay North and West of the Ohio River.

pendence were the thirteen seaboard colonies alone. Canada, though appealed to, to join the revolution, had refused. That in 1776 the Western territories were, *de jure* and *de facto*, part of Canada, and not part of the separating Colonies, was clear beyond argument.

Congress, indeed, advanced a merely colorable claim, based upon the form of certain ancient patents bestowed by former English Kings upon the founders of the colonies of Virginia and Connecticut. The rights of the constituent colonies, urged by Congress in the common interest, against Great Britain, Congress itself repudiated, when urged in favour of the claimant States themselves.

Charters had been granted by Charles I. and James II. to a series of adventurers desiring to found colonies along the Atlantic coast, on territories then claimed as English, by right of English dis-

covery. At the date of those charters, the interior of the continent south of the St. Lawrence chain of waters was not merely *terra incognita* to every European nation, but the very form and limits of the Continent were absolutely unknown. Towards the interior an objective point could not be named. The descriptions in such charters, accordingly, were broadly worded, upon the principles of a general release, or of a quit claim conveyance. Following the liberal custom of the times, the "South Sea," the supposed limit of the continent, was mentioned as the western boundary in all the early charters; being the name of the only natural boundary known either to geographers or to statesmen: even its assumed position being merely conjectural, and as it proved, erroneous.

The nature of the patents granted to Raleigh and the Virginia Company, was well understood at the time. Neither

grantee nor grantor took those parchment licenses to carry the English flag into a *terra incognita*, and to appropriate and govern what might be discovered, in the sense of a literal title to land. It was as well known to subject as to Sovereign that the same territories were the subject of claims, equally broad and equally vaguely founded, on the part of other Powers. By right of discovery the interior of the Continent of America was debatable ground between no less than three European claimants. If Great Britain set up her discoveries on the Atlantic Coast, France pointed to discoveries on the North, Spain to discoveries on the South and West. England's pretensions to the New World were necessarily somewhat more modest than those of one at least of her rivals. James I. could not like a Catholic king set up a perfected title to a whole continent, under the authority of a grant from the

Vice-gerent of Christ. English claims must rest altogether upon exploration or possession. Neither exploration nor possession could be asserted of an undiscovered region, occupied by formidable native tribes, owning no allegiance to any of the foreign claimants.

Patents, therefore, such as Charles and James had granted to the Virginia Company and to the colony of Connecticut were well understood by all parties to amount to no more than a royal license to explore, to conquer and to occupy at their own risk. They served the King in the meantime as a kind of parchment assertion of a Royal title, sufficient to prevent the pretensions of rival European claimants from becoming peacefully confirmed into claims *de jure,* for default of counter claim. But in fact and in common sense the claim of either power could only be ripened into title by virtual occupation. The first

Sovereign to become established in substantial possession would necessarily oust the counter claims of his rivals, and avoid the nominal grants founded on them.

By the course of events, the fiction of title on the English side, to the Ohio territories, had been clearly exploded. In the race between the three rival claimants converging from the East, the North and the South, towards the heart of the Continent, it was France that had been the most diligent and that had ultimately proved the winner. That nation had undoubtedly been the first to actually explore, and afterwards to obtain a kind of sovereignty, in the Mississippi Valley. Their explorers had repeatedly traversed it. Their traders had established themselves in it. They had erected forts and punished hostile tribes. The French, and the French only, enjoyed such pos-

session as the case admitted of.* Just before the commencement of the Seven Years War, the French had been *de facto* in possession of the whole country west of the Ohio River; nor were they wholly dispossessed in fact, until they had divested themselves *de jure*, by the Cession of 1763.

The title which Great Britain obtained by the Treaty of Session was of the nature of a fresh acquisition by conquest; not of a title by confirmation. So completely was this the accepted view in those times, that when that war with the French was at an end, the question was for some time in debate, whether those territories should be retained, or should, *as conquered French possessions*, be restored to France, in return for cessions elsewhere. While the subject was under

* Kingsford's Hist. of Canada, Vol. ii., chap. vi.

argument in the Privy Council, Benjamin Franklin (then present in London, as a Colonial agent,) presented a celebrated paper arguing for the retention of the Ohio Valley. In Franklin's paper the whole territory was clearly treated as a conquest. It is clear that he contemplated that the dominion, if retained, would be administered by the Crown absolutely as a new acquisition: not on the footing of a prior vested right, ratified by possession.

Endeavouring to reassure the English Ministry against the growing apprehension that their own Colonies, once freed from the peril created by the French possession of Canada, would become too independent—pointing, for answer to that apprehension, to the internal jealousies between the English Colonies—Franklin wrote "there are fourteen separate Governments on the sea coast, and *there*

will probably be as many behind them on the inland side." *

Franklin's argument was that the new territories would enable the Crown to add to the *number* of dissentient governments, not to the greatness of any one of them.

The English Ministers yielded to this argument, in deciding to retain their conquest; and they gave effect to it and to

*Hinsdale, The Old North-West, p. 130.

While the Seven Years War was still in contemplation, the united voice of the Colonies, at the Albany Congress of 1854, had *invited* the Crown to resume these Western lands. Franklin himself, in a paper drawn up at this time, had acknowledged that the old "from sea to sea" charters had binding force only until they were limited by the Crown. A resolution was accordingly voted to be presented to the King, desiring "that the bounds of the colonies which extend to the South Seas *be contracted* and limited by the Alleghany Mountains and that measures be taken for settling from time to time colonies of his Majesty's subjects west of said Mountains in convenient Cantons to be assigned for that purpose." Hinsdale, The Old North-West, p. 302.

Franklin's expectations, when by the Quebec Act of 1774 they put the whole territory under the administration of the Governor-General of Canada.*

During the interval between the Treaty of 1763 and the Quebec Act of 1774 the Western territories had been reserved by the Royal Government. The Quebec Act repeated and confirmed the separation of the conquered territory from the old English Colonies. So far these dealings accorded with the strict power of the Crown, in the view of lawyers: with the common sense of the situation, founded on

*Even if the previous grants to the other colonies were not already effete in respect to these territories, they were prerogative acts of royal bounty; and according to the principles of law then universally accepted, they were subject to revocation by virtue of the same prerogative, at the Royal pleasure. By the Quebec Act, if not by the proclamation of 1763, by necessary implication the power of revocation had been exercised, and any former grants of that territory became void.

the necessities of Government: and even with the previously expressed expectations of the Colonists themselves.*

Significant is the form of objection taken to the Quebec Act of 1774 by the old Colonies.

Their Declaration of Rights, put forward by the Congress of 1774, as the earlier, may be taken as the most trustworthy statement of what they regarded as their grievances. The Quebec Act appears in a list of Acts of the English Parliament, which were alleged by the Congress to be "infringements and violations of the rights of the colonists." Now it is remark-

* If a claim by the Government of Virginia, or the Government of Connecticut, to the ceded territory, in their own right, had followed upon the heels of the Conquest, it must have been resented as a breach of the earlier understanding allowed to be created in the minds, not only of the Ministers of the Crown, but of the other Colonies, before jointly entering upon the costly struggle which had led to the acquisition of the West.

åble that the inclusion of the Great West in the boundaries is not complained of in that arraignment. It is not so much as referred to. The Quebec Act is characterized as follows: "The Act passed in the same session for *establishing the Roman Catholic religion in the Province of Quebec*, abolishing the equitable system of English laws and erecting a tyranny *there*, to the great danger (from so total a dissimilarity of religion, laws and government) of the neighbouring British colonies, by the assistance of whose blood and treasure the said country was *conquered* from France." The implication that the complainants admitted the legality of the institution of the new Province, and of the bounds assigned to it, could not be stronger than is conveyed by the above form of words. Far from the delimitation of the territory being charged as a wrong, or as an infringement of vested rights of older

colonies, it is not alluded to in any way. It is simply against the accompanying re-establishment of French laws and of the Roman Catholic religion, that protest is justly directed: against the *policy* of a sweeping and improvident Act, which not only restored to the French settlements in the St. Lawrence valley all their native privileges, but seemed irrevocably to impose the same alien institutions upon the future inhabitants, (more probably to be English than French,) of the vast and still vacant territory of the West.

Not till the Declaration of Independence two years later, appears for the first time any complaint referring to the enlargement of the boundaries. Even this was in such a form that it confirms the implication to be drawn from the former instrument. The Declaration charged the king with "abolishing the free system of English laws in a neighbouring Province, establishing therein

an arbitrary Government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same rule *into these colonies.*" It is again the policy not the right that is challenged. Not a breath of doubt is cast upon the *lawfulness* of the enlargement of the boundaries. Parliament is charged with an error of statesmanship, not with an interference with vested rights. To all appearance, had the territory been formed into new colonies with English laws and constitutions, no complaint would have been raised against the Quebec Act.

By common consent of contemporaneous opinion the proclamation of 1763 had lawfully reserved the West as new territory under the jurisdiction of the Crown; and the Quebec Act of 1774 had lawfully made those territories part of the new Province of Quebec, then permanently created to embrace the former French possessions.

The boundaries of Canada declared in the Quebec Act, reaching South to the Ohio and West to the Mississippi, were unquestioningly followed by the maps of the period, both of English and foreign cartographers.* They remained undisputed until the time of the French alliance in 1778.

It was upon Virginian charters that the United States chiefly rested their claim of title in the peace negotiations. Yet when Virginia in 1779 had prematurely asserted her individual pretensions before Congress, on that foundation, protests were outspoken from numerous quarters. The general assembly of Maryland declared that no evidence or argument in support of the claim of Virginia had been alleged that was deserving of a serious refutation.† It was

* A catalogue of these maps is set forth in the vii. vol., Winsor, pages 182, 183 and 184.

† Hinsdale's Old North-West, p. 201.

found necessary to hush the discussion by an appeal to the common interest of the Colonies. The dissentients were reminded that they must not too frankly weaken the future argument of Congress in an ultimate settlement with Great Britain.

Thus even during the progress of the Revolutionary War, the charter claims of Virginia and the other Colonies had been practically repudiated; and Congress had claimed the Western lands for the benefit of the United States generally.

(After the peace of 1783 Congress more positively approved of the principle of the Quebec Act. The Ohio territory was carved into new States, and the Imperial delimitations of 1774 were adopted.)

Such were the legal grounds on which the United States claimed the Great West: grounds which the English Minister, Lord Shelburne, when they were presented to

him, very bluntly dismissed as "the nonsense of the charters."*

That Congress felt its title derived through the Colony charters to be weak, is shown by its resort to a very curious alternative form of claim. "The character in which the King was seized," they argued, "was that of King of the thirteen colonies collectively taken. Being stripped of that character, his right descended to the United States."† It does not appear that this argument, suggested by the committee of Congress appointed to prepare the instructions of their Peace Commissioners, was ever presented by the commissioners at Paris. As a piece of special pleading it was ingenious; as an argument, a lawyer or publicist whether on the 18th or of the 19th century must have pronounced it preposterous.

* Fitzmaurice. Life of Lord Shelburne, Vol. iii., p. 284.

† Dr. Hinsdale. The Old North-West, p. 106.

George III. was King of Great Britain, as well as King of the thirteen Colonies. The argument was a plea for a partition; not a claim of legal right. With much force the American Commissioners might contend that the West of Canada was a reasonable share to be conceded to them out of the conquests that had been wrested from France, by the joint efforts of the Provinces and the Home Government. But even this argument was not an appeal to legal principle. Severance of allegiance or of political unity is not to be compared to the dissolution of a jointure or partnership at will. One is severed in pursuance of contract, express or implied: the other in breach of it. One is the exercise of a right, the other is a Revolution. The severance of the common allegiance, under which there had been community in the property, had not been by agreement. Demanded by

the Colonies, acceded to by the Crown under compulsion, the Revolution was altogether a work of violence. The claims of successful revolutionists must always be construed *strictissimi juris.* Revolt carries with it no rights, beyond what its own force may enable it to secure. The *right* to a partition of Canada, as a sequence of the Revolution, reverted to the primary test of relative military ability.

For this purpose the claim which Congress presented to the Western territories no doubt was not worse than many claims which, in times past, had furnished pretexts for European wars of ambition. But to protract a successful war for independence into a new war of ambition, without respite, was just what the United States were in no position to do. They must have done so in defiance of the arguments of their allies, the French,

and of conflicting ambitions of their neighbours, the Spaniards. The private aims of the Colonies were not the united objects of the war.

The substantial object for which France had granted her alliance was the object defined in the Declaration of 1776, viz., the acknowledgment of the independence of the revolting colonies. The French Minister, Count Vergennes, declared that "there existed in the treaties no condition which obliged his King to prolong the war in order to sustain the ambitious pretensions which the United States might form in reference to the fishery or the question of their boundaries." *

Vergennes, as the chief exponent of the political views of Europe, argued with the Americans themselves, through his agent at Philadelphia, that Congress had absolutely

* Bancroft, Vol. v., p. 557.

no claim either to the territory of the Great West, or to a share in the coast fisheries: their colonial titles to both having been forfeited when they ceased to be colonies.*

Neither Spain nor France was disposed to make sacrifices for America. France was destined to prove a treacherous friend; Spain was to reveal that she had been from the beginning a virtual, although a secret,

*"He held the American pretentions to boundaries an illusion, and attempted to demonstrate the fitness of confining the American States to a narrow strip along the Atlantic." (Winsor's History; Vol. vii., p. 120.)

"Some historians," alluded to by the author I have last quoted, "seem to have difficulty in comprehending, even with the light of a century, that the destiny of the United States had, by the chances of the war of independence, become entangled in the meshes and mazes of European diplomacy." Winsor Narr. and Crit. Hist. of America, vol. vii.

A fact our review will bring home is that in the negotiations for the Peace, "a foreign influence hostile to the claims of America, hostile to her immediate recognition as an independent power, hostile to the boundaries, the Mississippi, and the fisheries, pervaded the air." *Ibid.*

foe. Free from even the pretence of an alliance, the Spanish King, (writes Mr. Jay), owning at that time nearly half of South America, with valuable colonies in North America, was not ready to view with satisfaction, or even with indifference, the rise of a power based upon a rebellion of colonies against the divine authority of a king, and the formation of a Republic devoted to civil freedom and to the Protestant religion. Carefully refraining at the outset from any direct engagement with the Colonies, the position of Spain was limited to independent military co-operation. She entered into the war solely to serve purposes of her own. For her the chief objective was not American, but European. The reconquest of Gibraltar was the aim upon which the Spanish ministers had set their hearts, and concentrated their efforts. With the dispersion of the combined beleaguering fleet,

before that fortress, that object had become, it seemed, hopelessly distant.*

In a secondary degree Spain had designs extending to America; but these, unknown to Congress, were the reverse of friendly to the aspirations of the States. Spain had agreed to engage in the war, after much urging by the French Court, and only on a secret condition; namely "that France should agree that if she could drive the British from Newfoundland, the Fisheries were to be shared only with Spain; and that Spain was to be left free to exact a renunciation of every part of the basin of the St. Lawrence, of the Lakes, of the navigation of the Mississippi, and of all the land between that river and the Alleghanies. By this bargain the price to be paid to Spain for entering the war was the surrender to her of what consti-

*Winsor, vol. vii.

tuted the fairest fruits of the war for which America had been contending."*

The military events of the war had been at least as favourable to Spanish as to American expectations. The West became the scene of some of the most daring and skilful exploits of the war, on the part of Spaniards as well as of Americans. In the vast wilderness, under the administration of the Royal Governor of Canada, Detroit was the only white settlement of any magnitude. At the outbreak of hostilities, the territory was garrisoned by a few forts, the chief of which, Detroit, was the seat of administration: next in importance being Mackinaw and Sandusky, also in the North. At the south-western corner of the territory lay three isolated Indian trading posts or "forts," Kaskaskia, Cahokia and Vincennes.

In 1778, a small but indomitable band

* Winsor's Narrative and Critical History, vol. vii, p. 148.

of two hundred frontiersmen, raised by a Virginian partisan leader, Col. Rogers Clark, by a bold and ably executed movement, surprised and possessed themselves of the three south-western posts. But the Spanish commandant at New Orleans almost immediately acquired a like, if not equal, footing in the territory, for his government. Moreover it was owing to Spanish co-operation that the Americans held possession of their captures to the end of the war.

A plan of campaign had been devised by the British Commander for the recovery of the three interior posts from Colonel Clark's little expedition, and at the same time for the capture of the Spanish forts on the Mississippi. The general scheme, says another recent American authority,* was an excellent one, and had every promise of success. It failed, the

* Mr. Poole in Winsor's History, Vol. vi., p. 741.

writer adds, "because of the promptness "and exceptional activity of the Spaniards "under Governor Galvez, and the watch- "fulness and energy of Colonel Clarke." (The scheme consisted of three simultaneous movements; of which the main operation was an attack by a fleet from Pensacola upon the Spaniards at New Orleans. From New Orleans the fleet and army, moving up the Mississippi to Natchez, were to unite with expeditions from the North, to recover the Illinois country and capture all the Spanish settlements on the river. A party of Indians was to attack St. Louis, and an expedition from Detroit was to invade Kentucky, and keep Colonel Clarke busy.)

The scheme miscarried, because the Spanish commandent at New Orleans, General Galvez, happened to be a person of great ability and energy, and anticipated the English plan of campaign.

Instead of waiting to be attacked, he no sooner heard of the declaration of war by his government against Great Britain, than he sent a fleet and army to capture the British posts on the Mississippi. The result was that Baton Rouge and Natchez, together with Mobile and Pensacola, fell into his hands. The tables thus turned by the intervention of Spain, the combined scheme for the recovery of the Western forts from Colonel Clarke was made impossible.*

Bent on strengthening Spanish territorial claims, the Governor of St. Louis, Don Francisco Cruvat, in the following winter, despatched an expedition northward. Boldly penetrating the wilderness in midwinter, the adventure resulted in the capture by the Spanish force of another isolated English fort, (St. Joseph,) situated

* Winsor, Vol. vi., p. 739.

near the site of Niles, Michigan. This took place in January, 1781. The Spanish standard was thus erected in advance of the line of American possession.

The English forces thereafter remained quietly at the chief posts, Detroit, Mackinaw and Sandusky in the North. Colonel Rogers Clarke with his 200 men held the three little posts at the South West angle; while a post, still nearer the centre of the North West, was held by Spain, together with the whole South West beyond the Ohio.

This was the military position of the West, at the close of hostilities in 1782. Franklin at least had foreseen that his countrymen's expectations would be embarrassed by the Spanish occupation. The American colonies would not now be the sole heirs apparent to the coveted heritage of the Great West. On April 12th, 1782, Franklin wrote from Passey, to the United States

Secretary of State; "I see by the news-"papers that the Spaniards, having taken a "little post called St. Joseph, pretend to "have made a conquest of the Illinois "country. In what light does this appear "to Congress? While they decline our "offered friendship are they to be suffered "to encroach on our bounds and shut us "within the Appallachian mountains. I "begin to fear they have some such ob-"ject." *

The secret history of the peace negotiations shows that Franklin was not deceived in his apprehensions of Spanish policy. Spain had begun to assert her own pretensions to the West. She declared openly that the United States had no territorial rights west of the Alleghanies, and that their western boundaries were defined by the proclamation of the limits of Canada, of 1774. Since the capture of Baton

*Winsor's History, Vol. vi.

Rouge and Natchez, Spain was in a position to claim full military possession to the south of the Ohio. Her grounds for also laying a claim north of that River, if rejected by Franklin with indignation, were precisely of the same nature as the claims that Congress based upon the position of Colonel Rogers Clarke. In the balance of contending claims between her allies, the sympathy of France inclined distinctly against the United States.

Vergennes, anxious to obtain a release from his engagement to Spain, was ready to make great sacrifices on the part of his own country and to require them of America.* In settling the details of the treaty he indicated the intention of his Government of taking strict legal ground. The occupation of the wilderness trading posts by Colonel Rogers Clark and his two hundred frontiersmen does not seem to

*Bancroft, Vol. v., p. 572.

have been treated by the French Minister as worthy of serious discussion. As a claim of military possession of the whole of the Great West (as we have seen) it was disputable, if not insignificant. Both on the question of title by possession, and on the question of title by historic right, the French Government, not unreasonably, sided with Great Britain.

I cannot agree in the conclusion of some American writers, that the British tenure of the West was essentially precarious: that, on some principle of predestination, it could not have lasted long in any event.

The war of 1812, fought when the West, with its tribes, its forts, and its settlements, was in the possession of the United States, resulted in a drawn game. The balance of chances therefore must always have been at least even, in favor of the *de facto* keeping of the territory

by Great Britain, had she not surrendered her claim *de jure*. The historical circumstances add probability to that conjecture.

If the Canadian settlements were feeble in 1783, they were destined soon to be strengthened. The Western border would have received its share, probably the greater part, of that accession of population which fell to the Province of Canada soon after the treaty The immigration, composed of exiled native loyalists, had been intended to settled in the Ohio territories, in preference to the unknown, and as it was supposed, inhospitable region of Upper Canada. Representing every revolted State, from Massachusetts to the Carolinas, the new population brought in its full share of "the strength and audacity of American civilization." *

It would have combined with the united

* Dr. Hinsdale.

strength of the native Indian tribes in the territory to furnish a loyal and formidable barrier to mere "filibustering" encroachments. The territory, it may be believed, would have been sufficiently garrisoned to have enabled Great Britain to hold it securely down to the period when British emigration began to take up its incessant march to those Western Valleys. From 1815 onwards those emigrants, resorting to the same territory, would year by year have redressed the political balance of the continent; instead of steadily aggravating the preponderance of population against their native flag, as circumstances have actually compelled them to do.*

*"The longer we consider the subject," says Dr. Hinsdale, "the less we will be disposed to think that the delivery of the West by the trustee appointed in 1763 was a foregone conclusion; the more will we think the retention of the North-West by Great Britain would have been a much more serious mischance than the gaining of the

Far from the States, in 1782, being able to count upon further assistance from either European power, towards the conquest of the West, secret overtures were pass-

---

South-West by Spain; and the more reason will we discover for congratulation that the logic of events gave us our proper boundaries at the close of the war of Independence, and did not leave us to succumb to untoward fate, or to renew the struggle with two European powers, instead of one, in after years." In another place he adds:

"It is not improbable that the war of 1812 for a time revived English hopes of again recovering the North-West. Tecumseh strove to erect his dam to resist the mighty water ready to overflow his people. Hull's surrender placed all Michigan in British hands. General Proctor sought to compel the citizens of Detroit to take the oath of allegiance to the King of England; and although Harrison's successes in the Maumee and Perry's victory on Lake Erie forced Proctor to evacuate Detroit, a British garrison continued to hold Mackinaw to the close of the war. Only three of the thirty-two years lying between 1783 and 1815 were years of war; but for one-half of the whole time the British flag was flying on the American side of the boundary line. In the largest sense therefore the destiny of the North-West was not assured until the treaty of Ghent." *The Old North-West.*

ing from those Courts to the English Ministry, the tenor of which even foreshadowed a possible reversal of alliances.

Apart from their anxiety for peace with Great Britain, the French Government leaned more to the Spanish policy than to the hopes of the United States. The motives of the French ministry at the inception of the alliance are thus described by an American writer, as shown by the contents of State papers now open to the inspection of historians. "The colonists were to be helped and encouraged, not from any love for themselves, which would be absurd, but only in so far as they would injure the mother country."* The French ministers now felt that they had carried that policy as far as they were able to do with any prospect of advantage to their own country.

* Mr. J. E. Lowell, Massachusetts Historical Society, Winsor's Narr. and Crit. History, Vol. vii., p. 26.)

French statesmen were perceiving, with apprehension, the effect of the successes of their American allies in stimulating revolutionary ardor nearer home. A French State memoir of the time urges that the French aid "is producing a dangerous impression upon the nations in this part of the world which think themselves oppressed."* The seeds of the French revolution were already germinating.†

* Winsor's History, Vol. vii., p. 121.

† It is a curious fact that when the awful tempest ultimately broke upon France, it was destined to visit upon the Minister who had been so ardent in bringing about the American alliance, what might seem a kind of historic retribution. The policy of Count Vergennes, encouraging the Revolutionists, assisted in producing a social war in America and resulted in driving the American loyalists into ruin and exile. Their miserable fate was a glass, in which their enemy might have read the downfall, from similar causes, not only of his order, but of his own family. His son was to become one of the crowd of beggared noblesse who fled from the storm of the Terror, to find a miserable refuge in England. It was

While England had been growing more liberal, in France a general reaction had set in against the American cause. Memoirs unearthed in the French foreign department show the anxiety of the French that the United States should be restrained from overgrowth. Vergennes repudiated the idea of their being allowed to monopolise the continent. The French Minister urged the necessity of England, Spain, Holland and France taking precautions against the insurgents. France and England particularly should unite against the progress of America. The former colonists being no longer English, it was England's right and interest to exclude them from the fisheries, which would now be the means of enriching an enemy, and a nursery for its seamen. England, Count Vergennes hoped, would be persuaded to admit no

with Lord Shelburne that the son of his old antagonist found shelter. Life of Lord Shelburne, Vol. iii.

further partners into the Newfoundland fisheries, leaving them to be shared exclusively with France, (whose rights were already secured by former treaty provisions).

Following apparently like views, Vergennes had formed, in concurrence with the Spanish minister, a scheme in regard to the disposition of the West, which was to be a compromise between British, Spanish and American claims. He proposed to concede to the States so much of the Western lands as lay East of the Ohio, (probably on the ground of the Virginian settlements within those limits.) But the great heart of the continent, that which was to be known as the West, from the Ohio to the Mississippi, in Vergennes plan was reserved to Great Britain. The remainder of that great Central Belt, from the Great Lakes to the Gulf of Mexico, was to be the share of Spain.

Such was the division which, it was calculated, would establish a balance of power in North America, between the two European States and the United States. The latter apparently would have commenced its existence as the weakest of the three American powers. To the confluence of the Ohio and Mississippi, together with the remainder of Canada, north of the lakes, would have been British territory. South and west of these lines would have belonged to Spain.*

Whether upon the footing of legal right or of the military results of the war, the scheme of Vergennes was no unreasonable

* Winsor, Vol. vii., p. 109-122: "These," says Mr. Jay, (Winsor, Narr. and Crit. Hist., Vol. vii., p. 121), "were the views which it was deemed most important to commend to the English ministry, whose co-operation was essential to the success of the French and Spanish scheme for curtailing the boundaries and dominions of the Republic, and retaining them under the European balance of power system."

compromise; particularly since Spain had indicated her willingness to accede to that plan.

Regarding the capture and holding by the Americans of three lonely forts near the southern limits as being matched by the British possession of Detroit and Mackinaw, the chief stations on the northern limits of the same immense wilderness, the balancing claim was held by Spain, as the third party in possession, north of the Ohio. That power now seemed to be willing to throw the rights she could not maintain for herself into the scale of Great Britain.

Now it was that the United States were destined to experience, as Mr. Jay has expressed it, that their fate "had become "involved in the meshes of European diplo- "macy." At the capital of France, the chief member of the alliance, the web of diplomacy naturally centred; and there the

American negotiators were not in the house of a friend. "Now that the secret correspondence of that day lies open to the world," says Mr. Jay, "the difference between the tone of Vergennes, the minister of the French king, to his agents, and that which he assumed to Congress, exhibiting the dissimulation which then passed as statesmanship, recalls the maxim of the Roman Emperors in Rome's decline, 'he who knows not how to dissimulate knows not how to govern.'"

The task of negotiating a peace with Great Britain had been regarded by Congress as so fraught with difficulty, that the United States, if unaided, could hope for no success, and that they could expect no concessions, except through the intervention of France.

The French king was in a position to expect to exercise a commanding influence over the negotiations. Before he had sent

his army and his money to the rescue, the contest on the part of the colonies had been on the point of breaking down. Without the presence of the French fleet and army, the siege of Yorktown could not have been formed. Even after that conspicuous (rather than decisive) event, French troops and French subsidies continued to be indispensable. Without them the exhausted country might at last be obliged to succumb.

Accordingly, the commission of Congress to its plenipotentiaries was suffered to be all but dictated by the French representative at Philadelphia. Franklin and his associates were peremptorily instructed to undertake nothing in regard to the negotiations for peace or truce without the knowledge and the concurrence of the ministers of "our "generous ally, the French king." The commission added, "you are ultimately to

"govern yourselves by their advices and "opinion." *

We have seen what were the aims of America's "*generous ally.*" They were far from being concealed from the common enemy. On the contrary they were earnestly, though secretly, pressed upon the English Ministry. At an early stage of the peace negotiations Mons. Rayneval was clandestinely despatched to England by the French minister, in concert with the Spanish Government,† to disclose the views of France, "playing into the hands of the English ministry, and calling their attention to the fact that the limits which he thought should be assigned to the

* "The French and English archives," says Mr. Jay, "add varied and abundant evidence to that already furnished by the secret journals of the old Congress, to show the influence exerted over that body in their appointments and arrangements to enable Vergennes to control at pleasure the peace negotiations of America.

† Winsor, Vol. vii., p. 122.

United States, relating to the Ohio, were those to be found in the negotiations of 1754; which was a distinct intimation that France wished England to retain the great territories on that river."

In short, the position was, that while Congress had endeavoured to stipulate, when forming the French alliance in 1778, that the acquisition of the Ohio territories should be one of the objects of the war, the Spanish government, which stood outside of the alliance, was distinctly hostile to that claim, and the French government now positively repudiated it: not only declaring the repudiation to their allies, but more than hinting it to Great Britain. Both as to the boundaries and the right to the fisheries, the French Government pressed the same views, though not by the same arguments, upon Congress, upon the American commissioners at Paris, and upon the Court of London. It was a policy earn-

estly urged as the united interest of all members of the European family of nations.

Exhausted in credit and resources by the seven years war of independence, and now threatened with abandonment, the United States could hardly hope to prevail in a war for the conquest of Canada. Nor was Congress prepared to go to that extremity, in defiance of the opinion of the allies.* It seemed that the American commissioners were practically at the mercy of the schemes of France, and of the still more inimical diplomacy of Spain. The accomplished chief of the French foreign office, (as Mr. Jay writes), "to all appearance had the power in his own hands."

But, adds Mr. Jay, "the one Government which had the power to determine the boundaries and decide the question of the fisheries was Great Britain, and her concurrence in the scheme was essential to

*Fitzmaurice, Life of Lord Shelburne, Vol. iii., p. 172.

its success." The position of England was really more independent than that of her allied enemies. Though undoubtedly desirous of peace, she was not under any necessity of purchasing it at too high a price. Though her finances were threatened, they were not yet, like those of her enemies, utterly broken. In the major operations in Europe, she had held her own, and the spirit of her people was still high.

Thus early in the career of the United States, their future seemed to be dependent at a critical moment upon the decision of Great Britain. If the scheme for limiting the boundaries and checking the future growth of the United States eventually miscarried, if that country is now an overbearing power upon this continent, those results must be ascribed to the deliberate decision of a liberal British Minister of that day in favor of America. For the first, but not for the last time in her history, the

young Republic was destined to find France, in whom she trusted, proving herself a false friend, and old England—the object then as since, of so much jealousy and enmity—proving in a better sense that, after all, kindred blood is "thicker than water." As Napoleon III., at a later opportunity, sought to tempt an English Cabinet to join him in recognizing the Confederacy, so with almost the same arguments of mutual advantage, the same representations of mutual danger, and with the same ill success, Vergennes now tempted Lord Shelburne.

The value of the West had been impressed upon the British Government so recently as 1760, in the elaborate argument drawn up by Franklin himself on the question of retaining that conquest from France. In this celebrated State paper, which had a decisive effect upon the future of the western territories, Franklin had

pictured their value in the most glowing colors. One hundred millions of people, the paper had stated, could subsist in the agricultural parts east of the Mississippi River and south of the Lakes. It is remarkable to what an extent even Continental states had become alive at that early period to the great future possibilities of the West. The Spanish Minister wrote to the King of Spain after the conclusion of the treaty, "This Federal Republic is born a pigmy; a day will come when it will be a giant; even a Colossus formidable to these countries. Liberty of conscience, the facility for establishing a new population in immense lands, will draw thither farmers and artisans from all the nations."

To suppose that an English statesman who had been a contemporary of the Seven years War, could be quite ignorant of the vast prospective importance of the Ohio and Mississippi valleys, for the possession

of which France and Great Britain had entered upon that long and deadly contest, would savour of absurdity. There is no reason to believe that the English minister, while he may have underestimated, by any means despised the vast material value of that ancient debatable land, which the attitude of the allies of America was destined almost to place in his hands.

The map annexed to the text* illustrates in a striking manner the extent to which the destiny of the American Continent might have been altered, had the views of America's own allies been adopted, instead of being rejected by England. Speculations over the fate of nations under other circumstances touch that disputable domain of freewill and destiny where the mind soon loses itself. Some however, of the consequences that would have followed a differ-

* From the Life of Lord Shelburne, (Fitzmaurice); also Winsor's Nar. Crit. Hist., Vol. vii.

ent distribution seem to admit of little dispute. It is clear that in geographical extent of territory and in abundance of national resources the political balance of the Continent would have been shifted. To Canada instead of to the United States belonged of right, and would have fallen, the great States of Michigan, Ohio, Illinois, Wisconsin, and Minnesota. Detroit, Cleveland, Chicago, Cincinnati, and St. Paul, would have been Canadian cities. It is not unreasonable to conjecture that as a consequence, Toronto and Montreal would have gathered a large share of the harvest of wealth at present monopolized by New York. Steam navigation and Railways, there seems no reason to doubt, would have played very much the same part, whichever of the two flags had floated over the favored region of the great West. The easy fertility of the prairies, in one case as in the other, would have as

irresistibly attracted the stream of immigration from Britain, from foreign countries, from Canada itself, and probably even from New England.

I am aware that much has been made of an argument that foreign, even English immigration, has not been drawn to the Western States by prospects of material advantage alone. It is asserted that Germans and Scandinavians would not have flocked across the ocean, to people the Great West, had not the distant domain held forth the additional attraction of a Republican Government. The assertion, left too long without reply, has nourished itself by repetition, although unsupported by fact. Undoubtedly the German mind has moved onwards for centuries with a general, if not uniform, tendency towards free institutions. But it is also to be remembered that, until the United States, in the

course of this Century, rose so conspicuously above the horizon, all eyes were accustomed to turn to the Law and Constitution of England, as the model of attainable freedom. Sir William Blackstone's Lectures on the Common Law, overflowing with enthusiastic admiration for his subject, only preserve for us the general sentiment of his period. England was to the European Continent, (not only to Spain, to Austria and to Italy, but to the German States,) the bright exemplar and the great protector of true Liberty. Prairies under an independent and Republican Government, it is possible, might have been chosen by foreign immigrants, in preference to prairies under the British Crown. But with the prairies a *monopoly* in Canadian, as they have been in American hands, there is little reason to doubt that the same streams of population would have flowed

thither, unrepelled to any appreciable extent, either by the British Flag, or by the constitutional Government of an English colony.

The mischief once threatened to Canada by the Quebec Act, against which the English colonies had justly protested, in 1774, had been soon undone. By 1791 Upper Canada, formed into a separate English Province, was endowed with a Constitution, that in the words of the first Lieutenant Governor to his first Parliament, was "not a mutilated Constitution, but the very image and transcript of that of Great Britain."

If its irresponsible Crown Council and non-elective Upper House were only too closely imitated from the constitution of George III., those institutions disappeared in the fullness of time, following the energetic protest of 1837. In the meantime even settlers from the United

States sought homes within the new English Province: finding nothing foreign or uncongenial, in its Government or its people, to prevent American immigrants from becoming (what they have ever since been found) a large, contented and loyal element of the population. The very legislation of the native Parliament was remarkably parallel in some respects with the American legislation affecting the Great West.

By its first act the Parliament of 1792 introduced the common law of England as the rule of decision in Upper Canada. The next session, of 1793, was to declare the abolition of slavery in Upper Canada. Thus the Canadian Emancipation Act followed, with an interval of only six years, the famous United States Ordinance of 1787, which excluded slavery from the Western territories.

Ill-grounded also is the assumption that

Canadian energy, (derived so largely from the same original founts as that of New England,) would have been unequal to the occasion presented by the possession of the Great West. Abundant resources are themselves a stimulus to endeavour, to which members of the English race have always shown themselves ready to respond. The history of a single decade has given signal and cogent testimony to the part that mere opportunity has played in the hitherto greater comparative manifestation of "enterprise" among our Southern neighbors. The bold development undertaken by the Canadian people, as soon as they became possessed of a great prairie region of their own, has fairly shown, I think, that our New England neighbors, magnificent as their industrial record has been, possess no monopoly of Anglo-Saxon energy and courage. A new spirit was revealed throughout the

(English speaking) Provinces on the opening up of the Canadian North-West Territories. The perceptible invigoration that occurred, both in industries and in the character of men, was only to be compared to the sudden upgrowth that starts, as if from a thousand latent seeds, out of forest land, that has suddenly been disencumbered, by fire or clearing, of its primeval shade.

Even in the past (a Canadian may be pardoned for reminding his readers) Canada has played a part in the development of the Western States. The railways she liberally subsidized, the great canals she burdened her resources to construct (of her unprofitable possession of which so much jealousy seems now to be felt), were all of more advantage to the settlement and enrichment of the Western States than to the people at whose expense they were built.

The sons of Canadian farmers moved Southward, to till lands which their fathers' taxes had contributed to making accessible. Nor have our young men gone to the Western States as tillers of the soil alone. They have been far from becoming hewers of wood and drawers of water for a more intelligent race. From the Ohio to the cities of the Pacific, they will be found to have taken their share, if not more than their share, of positions of trust, of direction and initiative, in the commercial communities of the West. We have every reason, I think, to believe that had the noble trust of administering those great territories for the English race and its institutions, and for mankind, been laid upon our own branch of the common race, the responsibility would have been in no degree less worthily discharged, than it has been by our brothers, the people of the United States.

The former Colonies, it will appear from what has been said, had no legal claim to the territory out of which the new Western States were afterwards formed. Neither had they moral claims founded on occupation and settlement. The map annexed to the text, exhibiting Vergennes' proposals, simply follows (with the exception of the portion marked as assigned to Spain) the political geography of the Continent, as it already existed in 1776 *de facto* and *de jure*.* On this account, the ultimate action of the English Minister was the more surprising to his contemporaries. Not only State policy, but the rules of law, seconded the views regarding the Western boundaries which the French Minister was actually urging both upon friend and foe.

Dr. Hinsdale, an American writer by no means wanting in patriotism, con-

* See Life of Lord Shelburne, Vol. iii.

fesses after the fullest investigation, that it is not easy to discover what were the decisive arguments in favour of the claim of the Colonies to the West.*

The American negotiators, so far as they attempted to set up a legal claim, appear, after all, to have rested their case on the old Charters. Shelburne, while not deceived as to the true value of the claim, seems to have simply accepted those obsolete parchments as lending sufficient color to defend the magnificent and, as he hoped perpetual act of conciliation he desired to accomplish.

The astonishment of contemporaries, at least, testified to the liberality and unexpectedness of the settlement by which the full extent of the American claims was yielded. Luzerne, the French representative at Philadelphia, wrote to Vergennes that the northern boundary from Lake

*History of the Old North-West, p. 183.

Superior to the source of the Mississippi had surpassed all expectation. It gave the Americans four forts that they had found it impossible to capture.*

The American negotiators themselves owned that they were as much surprised as overjoyed at their own success. "My friend," said Franklin when receiving the congratulations of the Duke of Rochefoucauld, "could I have hoped at such an age to have enjoyed so great happiness."

Even the United States Secretary of State, Mr. Livingstone, unaware as he was at Philadelphia of the apparently insuperable secret difficulties under which the American commissioners at Paris had laboured, wrote to them that "the articles had met with the warmest approbation. The boundaries are as extensive as we had a right to expect and we have nothing to complain of in respect of the fisheries."

*Winsor, Vol. vii. p. 159.

But when it became known in Paris that the Ohio boundaries and the fisheries, among other points, had been given up to the United States by a separate treaty, the French minister's surprise was unbounded. He declared that the concessions exceeded anything that he believed possible. "It seemed to him a kind of surrender. What could have been their motive he wished Rayneval (his agent in London) to discover, as he was in better position to do so. Rayneval replied that the treaty seemed to him a dream."*

The true motives of the great concession will be better understood as posterity learns to appreciate the character and views of Lord Shelburne.†

---

* Winsor's Nar. Crit. Hist., Vol. vii.

† "The Treaty which ruled the fate of a Hemisphere," writes the American Historian, Mr. Bancroft, Vol. v., p. 589 "was mainly due to Lord Shelburne and his confidence

The treaty of 1783 was one of those instances where the destiny of great nations,

in the character and understanding of Franklin." So also Mr. Jay: "The enlightened opinion of the England of to-day rightly attributes the resistance of the American colonists to their devotion to English rights and principles; and if Shelburne had accepted the overtures of Reyneval and joined France and Spain in their scheme for dwarfing the boundaries of the Republic and subjecting it to the balance of power system of Europe, the England of to-day would have condemned such an alliance for such a purpose—an alliance with Princes of the House of Bourbon to restrict and control the American Republic and to subject the valley of the Mississippi to the rule of Spain—civil and religious, as a policy unworthy of Great Britain and of her honorable destiny as the mother of States." Winsor, Vol. vii., p. 152.

One would think that one distinguished writer I have quoted might have chosen, under the circumstances, a less ungracious phrase than "wrested from England," and might have found a more direct expression than the "logic of events" to acknowledge the most unparalled act of generosity and confidence recorded in history. We have seen that other American scholars have been more magnanimous. They at least do not struggle to depreciate the benefaction, to which their country owes, in so great part, its present and prospective greatness.

for untold periods of time, seems to have been influenced by the character and principles of a few men: men, in this case, great in their aims and in their opportunities, whatever dispute time may have raised as to the actual wisdom of their action.

It is not wonderful that the motives of the British Cabinet should have eluded the comprehension of the French diplomacy of that period. Vergennes' principles of statecraft were set forth in the paper he had drawn up, before the alliance, laying before the French King reasons for encouraging the Americans in their revolt. "Ruin," he wrote, "hangs over a state which incautiously trusts to the good faith of rivals and disdains the opportunity to cripple a powerful enemy."

In the character of Lord Shelburne, upon whom rested the chief responsi-

bility of a momentous decision, there is much that is interesting.

The object of bitter abuse by his contemporaries, he was a man undoubtedly of many faults, mental and moral: which, while they exposed him to detraction and distrust, must also have diminished his influence and the usefulness of his life. But it is a life, on the whole, that shines out brightly from the background of a narrow, violent and grasping century.

He exhibited the courage (so sorely needed and rarely met in our own time) to refuse to bow in utter submission under the enslaving chain of Party. "It constitutes my pride and my principle," he declared to the House of Commons, "to belong to no faction, and to approve every measure on its own ground, free from all connection."*

* Life, p. 443.

The head of a Liberal Ministry, Lord Shelburne was far in advance of most of his colleagues and was governed by policies and conceptions almost unknown to his contemporaries. In opinions he was an Englishman rather belonging to the later Victorian era than to the eighteenth century. The early friend of Jeremy Bentham, of Franklin and of Priestly, in his principles of government, in the spirit of his foreign policy, in his views on ecclesiastical and social reform, he was the predecessor of the modern Humanitarian school.

"The people throughout the world," he wrote, "have but one interest if properly understood."*

In an age in which monopoly was an inveterate policy of his own and all European States, he personally favored the utmost freedom of trade. Morellet, the

* Life, p. 433.

French philosopher, wrote to him, that "Adam Smith had only put into words what *he* had actually put in practice in public life."*

On the American question, Lord Shelburne's course had been liberal from the beginning. He was one of the band of statesmen who had steadily supported in the English Parliament the principles of the Declaration of Rights of 1774. He entered on the whole question with views that belonged rather to our century than to his own. Far in advance of his age, he had desired to see the colonial relation merged in a Federation of the Empire. When at last, in consequence of the long continued and contemptuous denial by the King and a majority in Parliament, of the reasonable claims of the Colonies, the Declaration of Independence intervened and it became

* Life, p. 470.

necessary to assent to a separation, Lord Shelburne expressed his determination to bring about "not merely peace, but *reconciliation* with America," on the noblest terms and by the noblest means.*

Events had at last broken down the obstinate and fatal resistance so long offered by the King to the advisers who had most truly represented his people's interests. Shelburne was called upon—too late indeed to save the greatness of the English nation, but not yet too late, he hoped, to preserve the moral unity of the English race.

At the opening of the negotiations Shelburne frankly impressed upon the agent he was sending to Paris, the liberal motives with which he approached the subject of a peace.†

* Bancroft, vol. v., p. 550.

† I have never made a secret of the deep concern I feel in the separation of countries united by blood, by princi-

If it was the good fortune of the United States to have for their adversary a liberal and modern-minded Englishman, their own choice of negotiators was not less happy. John Adams, originally appointed sole commissioner by Congress, was less prominent in the earlier and decisive stages of the negotiation, than Benjamin Franklin and John Jay.

In Jay, the future first Chief Justice of the Supreme Court, the United States was represented by an able lawyer, with the

---

ples, habits and every tie short of territorial proximity. But I have long since given it up, decidedly though reluctantly; and the same motives which made me disposed to be the last to give up all hope of reunion make me most anxious, if it is given up, that it shall be so done as to avoid all future risk of enmity, and lay the foundation of a new connection better adapted to the temper and interest of both parties. In this view I go further with Dr. Franklin than perhaps he is aware of. My private opinion would lead me to go a great way for *Federal Union;* but is either country ripe for it? If not, means must be left to advance it." Shelburne to Oswald; Life, Vol. iii., p. 248.

knowledge, courage and diplomatic skill, in which that profession forms so excellent a training school. To his bold insight into the situation his country largely owed its escape from the toils with which French diplomacy at Philadelphia, at Paris, and at London had entangled the fate of the young Republic. To him apparently belongs much of the credit of evading those fatal instructions of Congress, which would have prevented the United States Commissioners from negotiating their own treaty, independently of their unfriendly ally.*

What Jay had of skill and boldness was admirably supplemented by the ingenuity and eloquence of his coadjutor. The venerable Franklin brought to his country's service his philosophic prestige, the reputation of a capacity for forming

* Dr. Hinsdale, Old North-west.

broad and philanthrophic views of the future of his people, and above all the friendship and confidence of Lord Shelburne. The opening correspondence between Franklin and Lord Shelburne is full of references to former intimacy.

It was, in fact, the resumption of a correspondence of personal friendship, commenced in more fortunate times, but long interrupted by the unhappy events of the war.

Never, probably, before was a negotiation for peace between two warring nations entered on in such language, or marked by such a spirit, as was now to be recorded.

The preliminary interchanges read more like communings of two philosophers, philanthropically conferring for the good of mankind, than diplomatic protocols between the representatives of nations that for seven years had been at deadly war.

"Not peace alone, but reconciliation;" —was the substance of the message of Lord Shelburne, on behalf of the Parliament of England, to Franklin, the Envoy of the United Colonies. "Reconciliation!" —the American Envoy replied:—"It is a sweet word."*

These opening letters and other memoranda of the proceedings provide a commentary, without which the bare letter of the treaty, as it has come down to us, cannot be rightly read. Lord Shelburne did not negotiate with the Commissioner of the United States as he would have negotiated with the Ministers of France or Spain. He looked upon the treaty as a settlement with those whom he still considered a branch of his own people: not as a bargain with an inveterately hostile, or

*Fitzmaurice: Life of Lord Shelburne, Vol. ii.

even foreign nation, in which it was his business to gain as much, and give as little, as determined opposition and crafty diplomacy could effect.*

In a reported expression of Jay to the English commissioner, at one of the earliest conferences, we discern the true spirit that presided over the negotiation, and that chiefly led to its unexpectedly successful conclusion. He hoped that the English cabinet would not let this opportunity slip to wind up the long dispute, "so that we might *become again as one people.*"† This was frankly adopted on the English side, at least, as the keynote of the whole negotiation.

Technically, every argument, we have seen, seemed to favour the right of Great Britain to retain the possession of the

* Life of Lord Shelburne, vol. iii. p. 175.

† Winsor, vol, vii., p. 139.

West. But there remained another point of view, that of moral rather than legal justice and expediency:—a view based upon the prospects and sentiments of the future rather than the opportunities of the moment. It was grounds of this kind that the American Commissioners pressed, and to which the mind of the Imperial Minister yielded.

The turning point was at that critical moment, when the American commissioners at Paris, learning of Rayneval's clandestine mission to London, bearing the crafty suggestions of the French minister, on the subject of the boundaries and the fisheries, correctly suspected its object. Instantly resolving to set aside the instructions of Congress, they despatched a confidential envoy on their own part to the English minister. This agent, Benjamin Vaughan, (himself an Englishman,) in a lengthened private audience with

Shelburne, earnestly unfolded the views and arguments in which he had been elaborately instructed by Jay. That memorable interview created a remarkable sense of sympathy and rapprochement in the mind of Lord Shelburne towards the American statesmen.

Britain, Vaughan reminded the Ministry, certainly expected other advantages by a peace with the Americans, than a mere suspension of hostilities. She doubtless looked forward to cordiality, confidence and commerce. Nothing remained for the mother country to do but to make friends of those whom she could not subdue; and the way to do this was by leaving them nothing to complain of, either in the negotiation, or in the treaty of peace: by liberally yielding every point essential to the interest and happiness of America.*

* Winsor, vol. vii. p. 124.

At that period, the securing a field of emigration was by no means (what it was destined to become at a later period) an urgent object of British policy. It was not till after 1815 that the great overflow of British population commenced. In the 18th century it was rather a lurking fear of depopulation that occupied, in many European minds, the place that the necessity of emigration holds in our day. At the time of the treaty the chief motive of English Statesmen was not emigration but commerce.

Nothing was more alluring to the liberal mind of Shelburne than the prospect of securing a perpetual freedom of trade. The destruction of monopoly in commerce was an object which formed part of his political views. "I regard monopoly," he said to the French Ambassador, "as odious, though the Eng-

lish nation more than any other is tainted with it."* "A peace is good," he declared, "in the exact proportion that it recognizes that principle."†

It was in this respect that most liberal and enticing expectations were held out by the American Commissioners to the English Minister. Part of the mission of the envoy despatched by Jay was to impress upon the English Minister that the true object of a European commercial nation was not to preserve the possession of vast tracts of wilderness, but to secure *forever* the profits of an extensive and lucrative commerce.‡

At Paris Jay himself, it seemed to the English Commissioner, pleaded in

* Bancroft, Vol. v., p. 566. (Last revised edition).

† Lord Fitzmaurice, Life of Lord Shelburne p. 323.

‡ Winsor, Vol. vii., p. 125.

favour of the future commerce of England, "as if he had been of her council."*

By the mouth of his envoy, and throughout the negotiation, Jay never ceased to give prominence to the unlimited prospects of trade, to accrue to the mother country as a consequence of a friendly settlement. Should the great West be conceded, from the great lakes to the mouth of the Mississippi its vast and growing commerce should always be open to Great Britain.

Armed with such arguments and holding forth such prospects, the mission of Vaughan was crowned with complete success. Sentiments that were so like his own were accepted by Lord Shelburne with a kind of joyful surprise. A change of policy resulted in favor of the Americans, "a change so marked, so

* Life of Lord Shelburne, Vol. ii., p. 272.

complete, that it took the American Commissioners by surprise." As one of them wrote at the time, "they hardly knew how it would result."*

A Commissioner was sent at once, accredited with authority to guarantee, by implication, the independence of the States in advance of all other terms; and the way was paved for the concession of everything that was desired. As Shelburne wrote to the English Commissioners at Paris, "we have put the greatest confidence I believe ever placed in man in the American Commissioners. It is now to be seen how far they or America are to be depended on."

A draft treaty was sent over by Lord Shelburne's agent, Oswald, to his principal. It was, in its terms, very favourable to the Americans: as he explained

* Ib.

to Townsend, it had been avowedly drawn with that object, in order to lay the foundation of future good will, and to leave as few causes of future difference as possible between the two nations.

That the question of the West was not a determination upon any lawful claim, but a partition of neutral territory by agreement, was illustrated by the manner in which the boundaries were finally settled. After accepting the Mississippi as the American limit on the West, it remained to the last to settle the point where the United States would touch the North Westernmost boundary of Canada. Alternative lines, embracing widely different zones were submitted by the American Commissioners to the English Ministers.* The latter made a

*"At the last moment the question was determined in England," says Mr. Bancroft, "by the British Ministry, without any suggestions whatever from the United States.

selection and it was agreed to by the United States, without argument.

(I do not propose to touch upon the tedious dispute over the North-East boundary between Maine and New Brunswick,

On French maps published before the Seven Years' War the Lake of the Woods was the limit of Canada at the North West. The North Westernmost point of that lake was chosen as the North Westernmost point of the United States, and was reached by a line continued north through the centre of the water course of the great Lakes to the North." Bancroft, Vol. v., p. 576. The alternative line submitted by the American Commissioners would have included in Canada part of Minnesota and Wisconsin, but it would have cut off from the Empire the peninsula which forms the most important part of the Province of Ontario, a far greater loss. Had that line been accepted, no Province of Upper Canada would have been set apart for English settlement in the last century. Protestant Canada consequently would never have existed, and Constitutional Government could not have been granted. The Canadian Confederation would not have been brought about. The North-West would not have been acquired, or a Canadian Pacific Railway undertaken; and the British Empire, in its modern sense, would be still unborn.

or upon the questions it left to the future to be defined by the most soundly abused convention, probably, that Great Britain ever entered into. The merits involved in the Ashburton Treaty are obscure and perplexing. They depend upon radical disputes of fact. Happily the dreary and unprofitable controversy, upon which national opinions have been irreconcilable, is not only an absolutely dead issue, but one which Time has deprived of much of its supposed importance.

The conceded territory, unlike that of the Great West, is in itself of insignificant value. It had only the importance of situation. For years the North-East corner of Maine was regarded as a fatal wedge that apparently would forbid forever any internal and independent communication and any real union between the Maritime and the inland Provinces now included in our Do-

minion of Canada. It seemed to throw us back hopelessly upon an impassable wilderness of mountains. But the progress of art, and the growth of wealth, together, are rapidly making light of natural obstacles once formidable to political unity and commercial intercourse.

The Maine boundary, though it must always seem too unnatural not to have been erroneous, can no longer be regarded as a perpetual, still less as a fatal, injury. It has become a mere *damage* whose consequences can be assessed in money, not in irretrievable political consequences. Particularly since ancient Louisburg, rather than its later rivals, St. Andrews or St. John, has promised once more to become the Atlantic objective, the geographical diversion from an air line caused by the intrusive Maine boundary has become comparatively insignificant.

A few millions of capital, (obtainable in

modern times at an already trifling and still diminishing rate of interest), to be spent, if desired, in projecting viaducts and piercing tunnels through the wilderness, will represent in future the utmost cost to Canada of the diplomatic error, if such it be, of the past.)

The main articles of the Treaty of 1783 conceded to the United States: First, an absolute recognition of the Independence of the old Colonies. Next, using the words of Mr. Jay, it "endowed" them with the extended boundaries they desired, extending to the Spanish possessions on the Mississippi, and including the most immediately valuable part of the great West. Finally, to these concessions on land were added the same rights and liberties of fishing that the former colonists had enjoyed when British subjects; not only on the Newfoundland coast, but on the Labrador coast, on the coast of Nova

Scotia, and in the Gulf of St. Lawrence.

In respect to this article, once more American success had depended upon the fortunate acceptance of moral representations rather than upon the strength of legal claims. The case of the Colonies in regard to the fisheries was like their case upon the question of the great West. The new States were justly able to claim that they had borne their share, while Colonies, in the expense and losses of the repeated campaigns against the French possessions, which had been crowned by the conquest and cession to the Empire of the coasts to which the fisheries were appurtenant. In addition, they could lay peculiar claims on the ground of actual occupation; such as they had been unable to present in respect to the great West. The enjoyment by fishermen of Maine and Massachusetts of the fisheries on the coast of the Continent had been long

and constant. By their adventurous toils and hardships, it was claimed, the wealth of the seas had first been developed. *Legally*, the claims so founded, as in the case of the similar moral claims to the Great West, were susceptible of a conclusive reply. They had acquired no *easement* in their quality of inhabitants of Massachusetts. In law there could be no dominant and servient tenement while Nova Scotia and Massachusetts were united under a common title and possession of the Crown. Rights which they had enjoyed in common in their quality of subjects of the Crown, must cease upon the severance of that allegiance. Such was the opinion, we have seen, of the French diplomatists as well as of English lawyers.

Whether or not the American negotiators felt that their case for the fisheries had no sound foundation, they did not rest

upon a point of law. The same representations and inducements of another kind which Jay had so successfully urged as affecting the great West, his colleague now urged in favour of an interest in the fisheries. Franklin, when the first English draft of the Treaty was presented to him, observed that it contained a concession in regard to catching fish limited to the Banks of Newfoundland. "Why not," he wrote to Lord Shelburne, "all other places, and among others the Gulf of St. Lawrence? *You know that we shall bring the greatest part of the fish to Great Britain to pay for your manufactures?*" The full enlargement asked by Dr. Franklin followed. It was upon his representation that the treaty privileges were extended to the Nova Scotian coasts and to the St. Lawrence waters.*

*Bancroft, Vol. v., p. 575.

Thus from its very origin there was a close connection between the fisheries (now in dispute) and the question of liberal trade relations between the two countries. Perpetual freedom of trade formed the consideration virtually offered by the representatives of America for the great concessions they were asking from the Mother Country. It was to be the promised return for the settlement of the boundaries and for the continuance of joint fishing privileges within the North American waters of the Empire.

The understanding of all parties was that reciprocal articles respecting perpetual freedom of commerce should form part of the Treaty of 1783. The expected articles were never embodied: though there is some evidence in the document and *dehors*, of an intention to append terms of that kind to the treaty. In the preliminary articles as originally

drawn up by Jay, a clause had actually provided broadly for a perpetual freedom of commerce.* But as a kind of detail, following the principles agreed upon, the subject was left to be dealt with by a subsequent commission. The whole work, it was expected, would be finished before the final execution of the treaty.

The supplemental work was actually entered on, shortly after the provisional settlement of the articles that constitute the treaty as it stands. An English Commissioner was appointed to treat with the American negotiators: with full power "for the perfecting and establishing the peace, friendship and good understanding so happily commenced by the provisional articles, and for opening, promoting, and rendering perpetual the mutual intercourse of trade and commerce between our kingdoms and the dominions of the United

* Bancroft, Vol. v., p. 570.

States."* Equally broad and assuring language was held by the American negotiators, whose minds had unquestionably been running in the same direction.†

To give effect to the work of the negotiators, Pitt brought in a Bill to provide for establishing commercial intercourse on the most enlarged principles of reciprocal benefit. Shelburne, also, as was to be expected of him, declared in favor of settling the commercial question upon a liberal basis. Unfortunately the opportunity that promised so well was lost; and, with one brief exception,‡ for generations the noble design has remained a dream; now farther, apparently than ever, from being accomplished.

Fatal obstacles arose in the course of the negotiations. The Americans

* Winsor, Vol. vii.

† Jay. Winsor's History, Vol. vii., p. 163.

‡ The ten years under the Reciprocity Treaty of 1854.

presented unexpected stipulations. Lord Shelburne (in view of the language which had been held during the negotiations) might fairly look upon the continuance of trading privileges by the United States as a simple reciprocity for its concessions, particularly the reservation of fishing privileges to the former Colonies, on the coasts which remained British. The English Parliament might reasonably object that they were not contemplating a new and general agreement for carriage of products between the two countries. From the language of the preliminary articles, as they already stood, they were entitled to understand that a reservation to Great Britain of free trade with the territories she was treating with had been an intended condition of the great territorial concessions which were already agreed to be made.*

* See post, page

Now it was found that the Americans proposed that the trade clauses of the Treaty should include—what, according to the custom of the time, would have been an unprecedented privilege,—liberty for American shipowners to participate even in carrying between ports of the British dominions. The request was actually favored by Shelburne, but it met with insuperable difficulties in the House of Commons.

The time was not ripe for so broad and liberal a scheme. The existing legislation of the United States and Canada regarding the coasting trade shews that in this respect public opinion, even on this Continent, has not yet risen, on either side of the boundary, to the liberal views of those statesmen of the 18th Century. Thus it finally seemed to the Commissioners of

both countries that they would "find it best to drop all commercial articles in our definitive treaty and leave everything of that kind to a future special treaty."*

Hence, there still remains unfulfilled an intention which governed the making of the great agreement of 1783. Although not embodied as a specific article in the treaty, the intention is plainly legible in the preamble: where it is recited that it was the aim of the high contracting parties not only "to forget all past misunderstandings and differences that have unhappily interrupted the good correspondence and friendship which they mutually wish to restore," but *also* "to establish such a *beneficial and satisfactory intercourse* between the two countries, upon the ground of *reciprocal advantages and mutual convenience*, as may promote and secure to both perpetual peace and harmony."

* Winsor, p. 164, Vol. vii.

It was, no doubt, this declaration in the preamble to which Lord Shelburne referred when he wrote, shortly afterwards, to his French correspondent, the philosopher Morellet:—"You will have recognized in the treaties the principle of free trade which inspires them from beginning to end."

Are not the broad intentions of the treaty, to be read also in those lines in which it is covenanted that "there shall be between Great Britain and the United States a firm and perpetual peace?"

Mere abstension from bloodshed does not fulfil the whole law of international amity. The duty of comity goes something farther, irrespective even of natural ties or of any special engagements between countries. The Law of Nations itself, says Kent, "enjoins upon every nation the punctual observance of benevolence and good-will, as well as of jus-

tice, towards its neighbors. This is equally the policy and the duty of nations. They ought to cultivate a free intercourse for commercial purposes, in order to supply each others wants, and *promote each other's prosperity.*"

It is not easy to escape from the conclusion that at the time when, with the vast dominions of the West, the freedom of the fisheries was originally conceded to the United States, it was contemporaneously held out to the mother country, that on the principles Kent has so well expressed, the whole region, notwithstanding its transfer, would remain open to the commerce of the donor: that donor and donee would endeavour "to promote each other's prosperity." The expectation was in the minds of both parties, as represented by their plenipotentiaries. That it to no small extent led their agreement is not to be doubted, and we have seen

that it is not left altogether without expression even on the face of the treaty

What lessons shall the school of history and statesmanship draw from the Treaty of 1783? Shall nations hereafter be taught to applaud the character and views of the great English Liberal statesman, who reposed a generous confidence in Franklin and in the nation he represented? Or must that unprecedented faith and liberality be finally condemned, in favor of the cynical maxims expressed by the Minister of monarchical France?

The first fact of American National History is that at its beginning a certain deliberate act of English statesmanship, assenting to the views of Franklin and Jay, diverted from the communities on this continent the perpetual intrigue, suspicion and bitterness that have forever attended the European struggle for a balance of power.

The same far-seeing statesmen were unwilling to leave their work half done. Wisely they designed to secure that the communities, happily delivered from the distrusts and precautions of an older continent, should not substitute relations scarcely less mutually injurious: that they should not learn to mingle, in double bitterness, the selfishness of commercial rivalry with the misanthropy of political jealousy.

If we inquire to what extent the expectations (if not the promises) to be read between the lines of the great Treaty of Partition, have so far been fulfilled, we find that History brings out of her treasury examples both good and evil.

There are times when it would seem to an observer that had Franklin and his colleagues been visited with an insight into the future when sealing the treaty, which transferred the great trust of the

West to the keeping of America, they might in that moment have turned to Lord Shelburne, and said on behalf of their people, "The great gift you have given us we accept: only that our descendants may employ it to the utmost of their power—short of actual war,—to injure the nation you represent."

A majority of the American people seem to have been gradually educated to believe that it is a kind of moral duty on their part to cut off commercial communication, as far as possible, between themselves and their kindred who remain under the British Flag.* That would

* The following sentiments were thought not so untrue or unbecoming as to be unworthy to be admitted to the pages of an American periodical, of the high standing of the *North American Review*:—"Indeed a casual reader of the American Press will see that in the present campaign Americans are scarcely one whit behind their other fellow citizens in their hostility to England, and Free Trade is as roundly denounced by them because of the advantages it would confer on England as because of

be the judgment from favorite representative utterances,—of party organs and political platforms—even of the school book and the lecture room. The mutual intentions expressed to each other by the parties to the treaty are being as far as possible reversed.

Can we reconcile with the spirit of the treaty, with a *bona fide* execution of its mutual considerations, legislation that for the past twenty-five years has hindered admission into the United States of agricultural and other natural products from the British possessions on this continent: tariffs maintained not from revenue or other necessities, but confessedly for the purpose of placing restrictions upon commercial intercourse between the inhabitants of the West and

---

the injury it would inflict on America. England is the natural enemy of America.—*N. A. Review*, September, 1888, p. 296."

their kindred under the flag of the Empire?

The term "Free Trade" when used by Shelburne and his contemporaries had not precisely the modern sense stamped upon it by Cobden and his school. The Free Trade of the 18th century related primarily to freedom for carriers rather than for cargoes. It did not exclude the right of levying revenue duties, nor even perhaps the idea of "incidental protection." But it certainly precluded tariffs framed not from revenue necessities, nor even for reasonable equalization of trade conditions, but for the declared purpose of forbidding international trade. Whether the exclusion be effected by an embargo upon shipping or by a practical prohibition upon the goods they carry, is a question of form The alien contract labour law as applied along the Canadian border is not merely a final breach with

the intention of the treaty, but also a breach with the spirit of modern civilization. It is distinctly a retrogression towards mediæval barbarism.

By the war of 1812—within thirty years after the treaty—the "perpetual peace" was broken. The war has been followed by a continuous peace of over 70 years: (may it be destined to be perpetual!) The war took place before the treaty had time to bear its full fruit. The long peace dates from the time that the great current of English emigration commenced to flow into the channels that New England energy had already begun to wear. Aided by the building of canals and the invention of railroads, the Great West came into play as a natural absorbent of energies, that might otherwise have troubled the courses of civilization on this Continent. The circumstances of the war of 1812, itself, it might be said,

join with those of the long subsequent peace to illustrate the prescience of the framers of the Treaty of Reconciliation.

The Treaty of 1818, with its renunciation by the United States of a comparatively small part of the gifts of 1783, was consequent upon the war. The surrender was not extorted, or (in the legal sense) *voluntary*, that is, unpurchased. It was mutually agreed to, from what both the parties at the time estimated to be valuable considerations. While the United States yielded back to Great Britain the privilege of fishing on coasts and in bays on the St. Lawrence and Acadian shores, there was a corresponding surrender by Great Britain of her rights of navigation on the Mississippi, which had been one of the terms in her favour in the original Treaty of 1783.

The privilege of sharing the fisheries

(except on the eastern Newfoundland coast) had designedly, and after much discussion, been conceded by the Treaty of 1783 as a "liberty" only. The same word had been used in the counter agreement respecting the navigation of the Mississippi. In one case as in the other, there was not a right, but a license. It existed only *durante amicitia*: and the United States, the British Government now claimed, on declaring war in 1812, forfeited the license on their side, so that its restoration must be a matter of special treaty. Whatever may be thought of the technical merits of this view, it was ultimately adopted by both Governments. It was applied on the other hand to the privileges granted Great Britain on the Mississippi, at the same time that it was admitted in regard to the fishing privileges granted the United States on the St. Lawrence, Nova Scotian

and Labrador Coasts. Each license was mutually understood to be surrendered.

The new treaty of 1818 granted the right in perpetuity of taking and curing fish within the limits designated by the President,* and it *added* the liberty of fishing on the coast of the Magdalen Islands and on the Western coast of Newfoundland, and the privilege of entering "for shelter, wood, and water, in all the British harbors of North America. A greater value seems to have been placed at that time on the Labrador

*"The President," says Dr. Angell, "gave authority to the American Commissioner to agree to an article whereby the United States will desist from the liberty of fishing and curing and dryinig fish within the British jurisdiction generally, upon condition that it shall be secured as a *permanent right* not liable to be impaired by any future war, from Cape Race to the Rameau Islands, and from Mount Joli on the Labrador coast through the Strait of Belle Isle indefinitely north along the coast: the right to extend as well to curing and drying the fish as to fishing." Winsor's History, Vol. vii., p. 490.

fisheries than on all the rest: and the concessions obtained by the American commissioners were regarded as an important improvement upon their instructions.*)

Thus a part of what had been conceded by the treaty of 1783 was resumed, but what remained was confirmed, or re-granted in a new quality. What had been a mere privilege was now made a perpetual property. It was put on a footing with the jointure in the Newfoundland fisheries. That consideration was regarded by the parties at the time (and why not still?) as a substantial one.

Neither the war of 1812, nor the Treaty

* The right of entering harbours within the three mile line was to be for "shelter, wood and water," "and for no other purpose whatever." Perhaps to prevent, if possible, the very disputes which are now arising, and to declare what would be *evidence* of the abuse of the privileges, those very strict words, over which so much controversy is now being maintained, were inserted.

of 1818 following upon it, dissolved the reciprocal understanding which formed the basis of the agreement for the transfer of the Great West. While the United States, by the later treaty, deliberately and for consideration, waived part of the original fishery concessions, they continued to retain the whole of the Great West. The chief "consideration" was preserved, and the obligations morally annexed to it, by the antecedent understanding of the parties, continue to attach. Happily, since the events of 1812 and 1818, between the latter period and the present time, there intervene some brighter leaves.

If the war of 1812 was a revulsion from the spirit of the Treaty of 1783, if the Treaty of 1818 was an apparent derogation from its broad concessions, the Treaty of 1854 was a full restitution of the one, and a partial return to the other.

In a happier hour, honourable while it

lasted, to both nations, that intervening surrender of 1818 was waived and the joint use of the fisheries restored to its first completeness. The Treaty of 1854, best known as the Reciprocity Treaty, while it remained in force, was a fulfilment of the Treaty of 1783, almost in the full spirit of that great act of international amity and conciliation. From 1854 until 1864 American fishermen once more plied their calling in *all* Canadian waters. The United States, in return, placed trade relations (to the extent of natural productions of the United States and of the conterminous British dominions,) upon the very footing that had been aimed at in 1783; though it had not then been definitely established.

The concession, though made in form only in favour of Canadian producers, enured indirectly to the benefit of the commerce and manufactures of the

Mother Country. As Canada laid no prohibitory duties on English goods, in so far as Reciprocity promoted the prosperity of Canadian miners, farmers, and lumbermen, it presumably enlarged their ability as consumers of British manufactures.

Endeavouring to confine myself to those reflections that arise naturally out of the historic series of great events which I have been pursuing, nothing could be further from my intention than to be betrayed into any premeditated polemic on the merits or demerits of a protective policy. But one remark I may be permitted to make, without violating that rule. If Protection is a good policy, the Reciprocity Treaty of 1854 was no violation of it. The provisions of the Treaty, liberal as they were, involved no breach with the general principle to which (but with more reason as well as

more moderation than now) the American people were already devoted in 1854. The professed aim of a protective policy, at least in America, is the raising of the wages of labour, and the amelioration of the prospects of the "working classes," as compared with their rivals in Europe. Let it be conceded that protective duties may not, when restrained by reason and judgment, be ill adapted as a means to that end. Pursued in moderation, let the aim itself be admitted to be a good one. But protection, directed against *natural* productions, is not a rivalry of industries. It becomes a war with the beneficence of Nature; a rejection of her treasures of soil, forest and mine; a denial of conditions of geography and climate; a quarrel with the rain that falls on the just and the unjust, and with the sun that shines upon the evil and the good.

If the avowed aim of protection is the defence of labor from competition under unequal conditions, on what principle can it be justified against the farmers and workmen of an adjoining country, on the same Continent, mostly of the same race, living under practically the same institutions, and ambitious of attaining the same standard of living? Under such circumstances, if any unequal conditions exist, they must be purely natural, and, therefore, probably perpetual conditions: war against which must involve economic loss. The Treaty of 1854, therefore, permitting free exchange of natural products, only, involved no hostility to the aims of sincere and rational Protectionists.

Under the beneficent influence of that convention, the line between the two countries, at their point of contact on this Continent, became as nearly as possible obliterated. Without damage to the loy-

alty or individuality of either, the two nations began, in Mr. Jay's words, to be again as one people. Commerce was unrestrained. Social and political sympathy increased. Hence when—a generation ago—the division between the people of the United States among themselves broke out into civil war, the sentiments of a majority of English-speaking Canadians were found to be in many respects like those of a Northern State. Without doubt the gallant struggle of the weaker side in the American war aroused its share of admiring sympathy: in Canada (as also in the Democratic party of the North) the Southern cause found a limited number of partisans. But Nations are not to be judged by the various sympathies of individuals, but by the general resultant in the actions of Government. The Government of Canada was unwavering in its adherence to the duties of friendship.

On the other hand what must have been the real sympathies of the vast majority of a people, which out of a population of about three millions, sent forty thousand recruits to the Northern armies? It is not probable that the quota of native *volunteers* would have been much larger had the Provinces already been States of the Union.*

But in 1864, the successful party in the Northern States were not content with the *justice* of a neighboring government: they required proof of unanimous partizanship from its people. A nation sore with the recent wounds of war is seldom in a mood to strike a true balance.

Popular feeling, for one instant, appeared to pause, swayed by the able

* Volunteering is a test of feeling. *Conscription*, of course, is not.

argument of a Canadian public man.* The Convention of Boards of Trade from the chief cities of the United States, after hearing that telling appeal, (from eloquent lips that are now dumb,) voted unanimously for the continuance of the treaty.

But the tide of hostile passion soon returned, and like the savage torrent in the Connemauga valley in one wild moment overwhelmed and obliterated the labour of civilization. The mutually honourable, mutually beneficial treaty was swept away. It was terminated virtually as an act of revenge. Duties were restored, not for objects of fiscal or commercial policy, but confessedly as a hostile measure against Canada: the initiation of a long course of mutually unfriendly acts—a kind of international Vendetta—between

* The late Hon. Joseph Howe: address before the Detroit Convention, 1864.

the two peoples: that, at the time of their separation, had solemnly covenanted, "in the name of the most Holy and undivided Trinity" to keep "*a firm and perpetual peace.*"

The case of the Atlantic fisheries, under the policy actually prevailing in the United States, may be thus illustrated. The American owners of the Gloucester fishing fleet have been accustomed to address their competitors, the native Nova Scotian fishermen, with remonstrances like the following: "To forbid us those bounties which nature has bestowed upon your coast is a barbarous exercise of power. Still more barbarous is it to refuse us facilities of sending our fish caught on the high seas to market over your railroads. Let these privileges be enjoyed by us in common with you, as fully as they formerly were."

To such an appeal let us suppose that the native fisherman has acceded. The fisheries have been shared accordingly. The fishing season is over. Part of the joint catch has been despatched, fresh, to a common market, chiefly in the United States, over the Canadian rail-roads. Thus far it has been caught, shipped and sold on equal terms. And now both fishermen have cured the balance of their catch. The chief market to which both look is the United States. But the American turns to his comrade and says, it is useless for you to bring your remainder of the catch to that market. I have procured legislation to forbid you. You have given me an equal right with you to fish, but I retain the monopoly of the right to sell in our chief market. Practically, your fisheries belong to me rather than to you. You have the nominal possession, but I have the chief

use and property." This, I think, fairly represents the situation the Canadian Government has been asked to put its subjects in. Is it a position that would be in accordance with the principles of justice or reason? Would it agree with the reciprocal intentions expressed by the makers of the Treaty of 1783, and guaranteed by its terms? Would it not be as directly as possible against the spirit of that Treaty?

The Treaty of Washington of 1871 was a partial truce, not a complete return to commercial amity. It temporarily restored the mutual freedom of the fisheries, but not the reciprocity in other natural productions; a money consideration being substituted in its place. But on the expiry of the term of that Treaty in 1881, even its partial good work was retracted. Since that date, through the reluctance of the United States Govern-

ment, the line of progress has never been resumed.

The offers which have repeatedly proceeded from the Canadian Government, to renew a mutual reciprocity in the use of the fisheries and in the free exchange of natural products, the unwritten basis of the treaty of 1783, would perhaps have received better consideration, had they not been thought by Americans to be made somewhat *in forma pauperis.* Latent in the American people, and often avowed by their politicans, is a deep conviction of the precariousness of the commercial and political position of Canada. Her prosperity is believed to be almost at the mercy of the United States,—the destiny of the Empire to which she belongs, certain disruption. Not a few ardent Canadians, betraying almost a corresponding unbelief, have dreaded the acceptance of their offer,

lest it should ultimately tend (only in a less degree than a more universal freedom extending to manufactures) to diminish the self reliance of Canadians, and even to undermine their control over their own destinies. As groundless as the fear on one side is the suspicion on the other. It will require a great cause in the future to throw the Dominion of Canada back upon that condition, (more mental than real) of dependence on the capital and enterprise of the United States, which prevailed in the old Provinces before 1865. Movements, political and material, have taken place since that time, all of which together have worked, not so much a change as a revolution. The resources of all the Provinces have increased. The Confederation of the central and Atlantic provinces has been followed by the acquisition of the North-west and the extension of the Dominion

to the Pacific. The Canadian Pacific Railway having been created, an active development has been incident to it. In every direction a proud and hopeful future is looked forward to. The St. Lawrence canals, when their enlargement is completed, are destined to bring Atlantic steamships direct to ports on Lake Ontario.* Cables to China, Japan and Australia are now a certainty almost of the immediate future. The disturbances in the North-west, so rapidly suppressed by local resources, have made still more conspicuous both the extent of the country and the proofs of its remarkable internal progress. Thus by its achievements, even by its misfortunes, Canada has been brought within the vision of the world. Apart from the foundations of wealth and population already laid within itself, the

* That is, freight and emigrant steamers of medium tonnage.

country is becoming so much better known in England and abroad, that it may soon look for its fair share of the streams of emigration and capital, which hitherto have gone, almost exclusively, to increase the riches and magnify the preponderance of the United States.

A country possessing ports on both oceans, and the shortest interoceanic route between Europe and the Indies, is not likely to remain a mere link of commercial communication between the East and the West. The stream must fertilise its banks. As Canadian ships find their way in increasing numbers to Oriental and Australasian Ports, Canadian products and manufactures will not be long in following. The Orient itself has opened before us with the dazzling suddenness of an Arabian tale. Never did greater advantages present themselves before so young a country; and the spirit of the

people is proving by no means unworthy of the occasion. Henceforth, with a treaty or without it, Canada, like Italy, *fara da se.* Such a country is in no mood either to be beaten into dependence or to seek a fortune-hunter's alliance. Possessing the means of independence, its inhabitants will not covet greater prosperity, at the price of abandoning character.

Independent as was the position of the English statesman when (in the words of the American historian) he endowed the United States with the great West, it is from a like position that the people of Canada now hold forth their offered renewal of common fishery privileges, coupled with reciprocity in natural products between Canada and the United States. The Canadian proposition does not originate in mere necessity. While its adoption probably would be mutually

beneficial, its chief merit is that it would accomplish the promises of 1783. It would remove causes of jealousy and offence; and, coupled with certain other steps that may be hoped for, might lay a corner stone of mutual good relations between two neighboring and kindred countries, for all future time.

A favorite American phrase, "We are making history," if, perhaps, boastfully uttered, states a truth of solemn and responsible import. The question of the hour is: Can the statesmanship of the English race in the last decade of the nineteenth century rise again to the level of the statesmanship of 1783?

Long ago the United States received their consideration, under that great agreement. They were freely given that splendid start in the race to which they owe so much of their national greatness. Will they continue to deny what,

(although not strictly covenanted in the letter of the bond), was virtually part of what was led to be expected on their side?

The Canadian statute book holds forth a continuing offer to renew the mutuality of intercourse and prosperity, intended by the Treaty of 1783, and for a time accomplished by the Treaty of 1854. How long will the people of the United States, by perpetually rejecting the offer, inflict a species of dishonor on the memory of their representatives at the making of the original Treaty?

Americans must expect to be judged, not by sentiments they protest in private, but by the course of history; which will depend upon the manner in which they influence the public acts of their country.

In the negotiation of the last Treaty of Washington (a negotiation marked by the appearance, for the first time, of a

Colonial Cabinet Minister as one of the Imperial plenipotentiaries)* one memorable advance was made on the lines of the Treaty of 1783; and happily an advance that was made irrevocably.

By one grand stroke, the treaty of 1871 extended the neutrality of the Atlantic into the very centre of the Continent. From the great lakes, the summit reservoir of the St. Lawrence, to the Gulf, no political barrier now exists to the passage of a ship bearing the flag of either nation. In an international sense the whole extent of those inland channels became as free as the open sea.†

---

* Sir John Macdonald.

† The following are the clauses of the Treaty on that subject :

ARTICLE XXVI.

The navigation of the River St. Lawrence, ascending and descending, from the forty-fifth parallel of North latitude, where it ceases to form the boundary between the two countries, from, to and into the sea, shall forever re-

This part of the joint Treaty was almost unilateral. The contemporaneous concessions by the United States

---

main free and open for the purposes of commerce to the citizens of the United States, subject to any laws and regulations of Great Britain or of the Dominion of Canada, not inconsistent with such privilege of free navigation.

The navigation of the Rivers Yukon, Porcupine, and Stikine, ascending and descending from, to and into the sea, shall forever remain free and open for the purposes of commerce to the subjects of Her Britannic Majesty, and to the citizens of the United States, subject to any laws and regulations of either country within its own territory, not inconsistent with such privilege of free navigation.

ARTICLE XXVII.

The Government of Her Britannic Majesty engages to urge upon the Government of the Dominion of Canada to secure to the use of the citizens of the United States the use of the Welland, St. Lawrence and other canals in the Dominion *on terms of equality with the inhabitants of the Dominion*; and the Government of the United States engages that the subjects of Her Britannic Majesty shall enjoy the use of the St. Clair Flats Canal on terms of equality with the inhabitants of the United States, and further engages to urge upon the States Governments to

of navigable rights through some rivers flowing through Alaska, and of a solitary lock at Sault Ste. Marie, (now being duplicated by a lock on the Canadian side), were far from being equivalent to the neutralization of the navigation of the St. Lawrence. At no part of the St. Lawrence channel did the United States control the only outlet. On the other hand, to the right of way through those waters, Canada added a license to use a number of artificial channels, which had been constructed at great cost, through her own territory.

The great St. Lawrence channel, which drains the heart of the continent,

---

secure to the subjects of Her Britannic Majesty the use of the several State canals connected with the navigation of the lakes or rivers traversed by or contiguous to the boundary line between the possessions of the High Contracting Parties, on terms of equality with the inhabitants of the United States.—*Statutes of Canada*, 1872.

from the basin of Lake Erie to the Atlantic Ocean, by the Niagara River, Lake Ontario, and the St. Lawrence River proper, did not constitute a continuous natural water-way. The obstacles on the St. Lawrence occur where the channel and both banks of the stream are within Canada. The improvements at those points form a Way of Necessity through Canada. The Welland and St. Lawrence canals, necessary to complete a navigable system, had been constructed on Canadian soil, at the expense to Canada of many millions. The cost of overcoming the Falls of Niagara and the St. Lawrence rapids, by that noble system of improvements, remained, (until the Pacific Railway was underaken,) the largest item in the Canadian public debt.

With a liberality for which I doubt if a precedent can easily be found else-

where, Canada not only freely agreed to the neutralizing of the artificial along with the natural channels, but, without any apparent equivalent in kind, bound herself in perpetuity to give passage to vessels carrying the United States flag at the same rate of tolls, and otherwise under the same regulations, as might be imposed on her own marine.

She might fairly look forward to the next offer, in the exchange of civilized liberalities, to proceed from the United States. The response (it might be thought) to the neutralization of the water-way from the Lakes to the sea, would have been the neutralization of commerce on the same waters: that is to say, the United States Government might have offered, to the extent of the waters lying between that country and Canada, complete mutual freedom of carrying, coasting and wrecking. By this

agreement Canada, on her part, granted a large instalment of the terms which the United States Commissioners had suggested to Great Britain, nearly a century before.* But the United States did not accept the opportunity of thus partially renewing their own proposal of 1783. The mutual restrictions on the trade of the Lakes remain unrepealed; and are enforced by both sides in their fullest barbarity. The return actually made by the United States for the rights in the Canadian canals, thus freely given them, has been the most ungenerous, I think, of which a great nation in modern times has ever been guilty. We have seen that the use of the canals was conceded to the citizens of

*In 1783, it will be remembered, the envoys of the United States had stipulated for mutual freedom of shipping, in all waters and between all ports, of the United States on the one hand, and of Great Britain and her Colonies on the other.

the United States "on terms of equality with the inhabitants of the Dominion." These words have lately been used to support a claim to dictate the regulations of the Canadian canals: in a manner, if the claim were admitted, to wholly reverse the known intention of the construction and maintenance of those works.

The construction of the Welland and St. Lawrence canals was an incident in a historic struggle which has been going on since the seventeenth century. "It is yet a problem to be decided," remarks a Canadian historian,* "whether the commerce of the lakes can more profitably pass to the seaboard at New York or at Montreal." Frontenac's Fort, at what is now Kingston, was always the rival of Oswego. Like the French fort at the mouth of the Niagara, it was

*Mr. Kingsford, Hist. of Canada, Vol. I., p. 404.

founded to direct the fur trade of the West to Montreal. From the times of the early fur traders to the present day, when grain elevators line the once wooded shores, and huge steam barges have taken the place of birch bark canoes, New York and Montreal, the Hudson and the St. Lawrence, have never ceased to be opposite points of trade attraction.

At the time the United States accepted the Treaty of 1871 their citizens were necessarily aware that the Canadian Government had certain objects in taxing its resources to execute the chain of canals that completes the St. Lawrence water-way. The tolls, which probably were never expected to produce a surplus, have not met the interest on the debt incurred. Subsequently to the Treaty of 1871, they have even been reduced; and they now barely recoup the annual expenses of maintenance. The

inducement to this expenditure, it was notorious, was the belief that the channel by which these waters find the shortest route to the sea, is marked by Nature to be the natural outlet of the commerce of the Provinces and States in the interior of the Continent.

The object always aimed at by these works was to open a continuous way from Chicago to the sea, by the route which Nature seems to have ordained: and which was expected, sooner or later, to draw a great part of the shipments from the Great West to a Canadian port at Montreal. By the Treaty the use of the system, thus created as a whole, was secured to citizens of the United States, "*on terms of equality with the inhabitants of the Dominion.*"

Some years after 1871, a petition of vessel-owners was presented to the Canadian Government, urging the necessity of

abolishing all tolls on the canals. They asked that the whole Canadian system from Lake Erie to the Gulf should be made entirely free. The Government did not feel justified in making, not only the cost, but the maintenance of the canals, a burden on the public purse; but they met the vessel-owners' demand half-way. They granted to cargoes of wheat carried through the whole system of canals, from Lake Erie to Montreal, by vessels under either flag, a rebate of Welland canal tolls, about equivalent to the St. Lawrence canal tolls. It amounted to a relaxation of the total tolls, (not upon vessels but upon cargoes), in favor of what Railways are accustomed to term the "long haul," or use of the complete system. The reduction of tolls was certainly intended to encourage trade to the terminal ocean port in Canada, according to the pur-

pose of the construction of the canals. But the rebate on the long haul applies alike to American and Canadian carriers; and is in every respect strictly conformable with the letter and spirit of the Treaty of 1871. It would be an extraordinary consequence of a free grant of this kind that the Government which had constructed the improvements—not for the sake of revenue, but for the promotion to trade by way of its own ports—should be construed to have been deprived of its liberty to frame its tolls and regulations (even as regards its own subjects), to effect that object.

This, however, seems to be the view taken by the Government of the United States. The action of the Canadian Government in rebating the tolls has evoked the most furious denunciations and threatenings from high official quarters at Washington. In consequence of

having been given the inch they now seem to claim the ell. Desiring to use a single link of the system separately from the rest, it is sought to extort the right to prescribe terms to the granting government, for its use, to the prejudice of the objects of the system, as a whole. The use of the canals having been secured to American citizens, free from any discrimination in regard to the nationality of the vessels, the grantees are found seeking to forbid the framing of the tolls according to the commercial system followed by every private carrying corporation, and which is now an acknowledged necessity of all great systems of transport.*

*The necessity has been judicially recognized in the decisions of the United States Commission, upon the application of their Interstate Commerce law: whose rigid provisions for equality of commerce are almost *in pars materia* with these provisions of the Treaty of 1871.

Even in regard to its own shipping, the granting Government may not favor the complete transit, which was the inducement to the work of construction. Even in their case, that Government is prohibited from fostering the ocean trade from its terminal port, and from observing the analogy of the long-haul scale of tolls.

When such demands are made, do not Canadian taxpayers reasonably ask: "Is it so written in the bond?" To impose such a prohibition, in consequence of Article XXVII., would be not a construction, but an enlargement of the treaty language. If, at the time when the treaty was in negotiation, it had been proposed to give the effect, by express words, which is now sought to be implied, is it credible that any negotiators representing Canada could have agreed to it? Is it for a moment conceivable that the

Canadian Parliament would have been induced to ratify a treaty, that would open the way to such an interference with the management and objects of its canals?

The injustice of this contention is the more glaring, when applied to the Welland canal, because, unlike some of the St. Lawrence improvements, the Welland canal is not, for the purposes of access from the interior to the sea, of the nature of an international Way of Necessity. Where the Niagara interrupts the natural navigation, either Government has always had it equally in its power to overcome the obstacles, by works upon its own territory. Canada has constructed the Welland canal, but the United States can at any time construct an independent work on its own side. The grant, therefore, by the Washington treaty, of the use of the Welland canal was only the

grant of an artificial way of convenience: —a kind of grant which natural, as well as judicial, equity has always regarded as liable to be construed with strictness.

How can the Canadian Government, by any inference from Article XXVII., be held to have bound itself, for all time, to undertake no other improvements, with the object of contributing to the prosperity of its own ports; or to be prohibited from regulating the terms of using those new works, in conformity with that end?

Since 1871 the Welland canal has been in some important portions supplemented at great cost, by an enlarged and entirely separate channel, excavated of larger dimensions, suitable to the more capacious vessels now in use on the great lakes. Those auxiliary portions of the canal are not, as they are now used,

identical with the Welland canal of the treaty, but additional to it.

The original canal, the canal of the treaty, is still maintained, and in regard to it the full letter and spirit of the bond, whatever they may be deemed to be, are always to be observed. But, according to the law of easements, it is doubtful whether there is an estoppel upon the Canadian Government, to prevent it putting its own terms upon its own vessels, choosing not to follow the treaty route, but the deviating line of a later work.

It is probable that the construction of this new and enlarged canal is the chief occasion of the necessity for the reduction of the St. Lawrence tolls by the rebate that has been objected to. The new Welland canal is the only portion yet executed of a general scheme of enlargement undertaken by the Canadian

Government to suit the larger class of vessels now chiefly used upon the upper lakes. These are now admitted by the enlarged canals into Lake Ontario, but are unable to pass the locks of the old St. Lawrence canals. Transhipment being necessary, many find it more profitable to tranship at Oswego into vessels carrying by the Erie canals direct to New York, than to make the transhipment which is equally necessary, to enable the cargoes, carried by these large ships, to reach the sea, at the Canadian port. The new improvements have temporarily created a condition of things not contemplated at the time of the treaty, which perhaps makes the relaxation of the St. Lawrence tolls an absolute necessity. Otherwise the trade from the Canadian seaport, and the total system of navigation to that terminus, for which Canadian taxpayers incurred so much expense,

would be placed at an actual disadvantage, as compared with foreign ports. Such are the facts which evoked the extremely unjust Message, (as I submit) issued by President Cleveland, in 1888, charging the Canadian people with a breach of the spirit of the treaty of 1871.

Without doubt, the impression prevails with the masses of the American people that the Canadian Government has imposed new tolls, or that its rebates extend only to Canadian vessels. Irrespective of this error of fact, the Canadian people believe the charge laid against them, of violating either the letter or even the spirit of the Treaty, is more than doubtful both in common reason, and in strict law.

In proposing stringent measures to his own Legislature to fortify his hands as a negotiator on this and the fishery ques-

tion, Mr. Cleveland was within his undoubted right. However harsh or unnecessary the measures he proposed might seem to us to be, we had no *locus standi* to remonstrate. But we are entitled to lodge our protest with the people of the United States, against those still unforgotten allegations, to which, coming from a responsible official quarter, presumably a large measure of credit must have been given. To the masses of a kindred and neighboring people, and to the nations of the world, Canadians have been held forth, in an official statement, as mere evil-doers without defence.

Since their conduct has been made the object of a violent judgment, proceeding from the agent of a party in interest, are not Canadians entitled to claim at the hands of a kindred people the benefit of the time-honored principle of English

freedom—the right to have their case tried by an impartial jury of their peers?

More quarrels seem to be looming up on this subject. If an agreement cannot be reached upon the construction of this important clause of a treaty, whose operation is to be perpetual, the decision ought to be referred to an authority impartial between the contestants. The treaty is in writing, and the question is one of construction. The question is of a nature more fit for determination by an international tribunal than by two Governments, each watched by a jealous Opposition in its own Legislature.

Events, I believe, are ripening the minds of men for a much greater movement, than has yet been witnessed, in the direction of that complete reunion of the two peoples, which Shelburne hoped for, and Jay promised, as the result of the Treaty of 1783.

I think the Canadian people may justly entertain some feelings of pride over their own already advanced position in the historical progress toward that great, (I still hope the predestinated) policy of reconciliation and practical unification.

For the twenty-five years, since the abrogation of the Reciprocity Treaty of 1854, the people of Canada have kept on record, in the form of an Act of Parliament, the fact that they have been always willing to revive it, and thus to restore the use of the fisheries to the footing of the Treaty of 1783, simply upon the mutual terms and conditions originally contemplated by the authors of that settlement.

Next, by the treaty of 1871, as we have seen, they made the vast length of navigation through Canadian territory, both tidal and fluvial, natural and artificial,

in an international sense neutral and free. It was granted to be used by vessels, under the American flag, on the same terms as by Canadian vessels, subject only to such tolls and regulations as might be imposed on the citizens of both countries.

Yet later, a still more honourable offer was on the point of being placed on the Canadian statute book, beside the standing provision which holds forth the offer of reciprocity in natural productions. After waiting long for a reform of the then grossly defective Extradition Treaty, the Parliament of Canada, in 1889, moved to supplement it, by enacting a law more liberal in its scope than any extradition treaty to be found on diplomatic records, or than any provision in *pari materiâ* on the statute book of any nation. Voluntarily and unconditionally, the Canadian act provided for the return of all

criminal fugitives to the United States, precisely (with the usual exception of political offenders), as if they had been fugitives from one portion to another of the Imperial Dominions. Without any reciprocal stipulations, Canada endeavoured, as far as was in her power, to enact uniformity of justice between the neighbouring territories which were once a common realm. An Act in those terms was carried through Parliament in 1889. Necessarily, however, legislation on a subject so connected with the foreign relations of the whole Empire, required the concurrence of the Queen's Home advisers. On their advice, the Royal assent was withheld, in consequence of the pendency of negotiations for an improved Extradition Treaty, which were happily soon afterwards brought to a successful ending. Thus the result intended by the Canadian Parliament was attained to a

great extent, although the Act itself never went into effect.

The international boundary is no longer a shield of crime. Already, also, a large measure of comity exists between the courts of the two nations in the administration of civil justice. How easily, upon foundations that exist on each side, might be erected that crowning structure, for which modern civilization waits expectant: the establishment of an international Supreme Court, for the orderly reference, and honourable disposal, of all claims and disputes, between the two great English speaking peoples!

The jealousies of trade policy are often but the cold shadow of a yet more forbidding shape: the evil spectre of War, always brooding gloomily in the background, over the peace of nations. Public men never wholly lose sight of

that dread possibility. Hence that sleepless jealousy lest one neighbour should outstrip another in the race for population and prosperity. Hence a constant watchfulness on the part of nations to multiply their own resources: hence also that disposition to account as double gain what is gained at the expense of a rival community. Even between the people of the New Empire, and of its neighbour the Great Republic, the weight of that fear, although so remote, distorts international relations and infects commercial policy. Even as between those two peoples the definite removal of the prospect of international war would be the mightiest boon that could be offered.

Two radically opposite methods present themselves to statesmen, desirous of accomplishing this end. One, as it

appears to me, would be a makeshift device: the other would be a permanent settlement. One is inspired by faith in human nature, and in the future of civilization: the other is based on utter pessimism.

At the opening of the negotiations for the Treaty of Partition and Reconciliation, Franklin, in a communication to Shelburne, pointed to the long conterminous territory of the United States and Canada, as the future cause of numerous questions. He pictured it as a territory likely to be occupied, on both sides, by a rough border population: the probable scene of perpetual local disagreements. Questions between the two nations, he urged, might become differences, and differences would generate wars. Franklin informally, therefore, suggested to Lord Shelburne, as the only way to avoid these risks, that Great Britain should

voluntarily throw all Canada into the liberal bargain about to be made. Lord Shelburne's reply was prompt and brief. "Let us hope," he wrote, "that a more friendly means will be found." What method of settling international differences may have been in Lord Shelburne's mind we do not positively know. We have no evidence that any details were discussed between his agent at Paris and Franklin. But Franklin seems to have admitted the justice of Lord Shelburne's reply. We find that his own suggestion of the cession of Canada was withdrawn without trace of any further argument.* The suggestion, however, has recently been revived.

An eminent American Senator, expressing the same convictions of danger, has brought forward the same remedy,

*Life of Shelburne, Vol. III., p. 189.

and supported it on the like plausible and philanthropic grounds.*

Two people that are conterminous across the breadth of a vast continent must quarrel, and their quarrels can only be settled by blows. This was the reasoning of Franklin, repeated by Senator Sherman, with much eloquence and the force of undoubted sincerity.

Holding such convictions, Mr. Sherman has no other remedy to propose than that hinted at by Franklin, a century before. Once more the magnitude of one generous endowment is made a ground for the concession of the remainder. Because of the great fortune formerly bestowed, by the common mother country, upon the first-born in the family of English nations, let the modest portion

* Senator Sherman's speech in the United States Senate in the Fisheries debate, 1888.

retained for the younger now follow. When Canada (that is to say what was left of Canada after the cession of the Great West) becomes merged in the United States: then peace and amity, even perpetual alliance, between the English-speaking nations, will be secured against all accidents.

While we may be permitted to doubt the extremity of the danger, I venture to doubt still more the certainty of the remedy. If, indeed, the peace of modern civilized nations, of the same blood and language, is to be dependent solely on the length of their respective chains, the mere width of the Atlantic is no sufficient guarantee.

The possibility of occasional friction, arising from proximity, is not the gravest danger to peace. The actual source of danger is as independent of any real

causes of hostility, as it is unconnected with the true character of the people of the two countries. Whether causes of dispute shall develop into *casus belli* depends not on the tendencies of the people, nor on the interests of the country, but upon the exigencies of the politicians.

The American nation, particularly, has now grown to be so vast and is so self-contained, that the rule which has generally governed nations is reversed. Questions of foreign relations now tend to be outweighed by questions of internal government. Short of actual war with a very great Power, any foreign complication seems so slightly to threaten the prosperity of the individual voter, that its importance will always be quite overshadowed by such a question as that of the tariff. Sometimes it seems to be overshadowed by the mere personalities of party politics. The leaders of the parties

feel that they can afford to play with foreign policy. Where there is a promise of winning votes, by exciting the passions of some class (like the Irish), the rising play may become dangerous. The experience of the past few years proves how far a nation may be carried, even against its will. Party will bid against party, each higher than the other, each approaching nearer the dangerous verge: till war itself may not seem too high a stake to be played in the party game.

What assurance have we that Canada, thrown into the melting pot of American parties, would convert the contents into purer metal? I see nothing in the behaviour of Canadian parties to support that flattering hope. The very act of Canadians, in hastily sacrificing the time-honoured rights and obligations of an existing allegiance, under a narrow and temporary view of local interest, or in

obedience to fleeting apprehensions, would not be a light thing. It would be a sacrifice of moral sentiments for material gain. Would it not be a concession to the evil genius of modern party politics, the fittest food to strengthen him for mastery?

Canada once made part of the United States,—however peacefully and with whatever professions,—soon, I fear, all ties of gratitude and honour would yield to the infinite baseness of modern party. To-morrow, perhaps, would find Canadian politicians "shouting for the Irish vote" as lustily and as recklessly as their American brothers have so long done.

As against those vigorous influences, little reliance is to be placed on mere sentiments: on race sympathies, on civilized duty, on national honour; still less on the influence of that "better class," which in the United States is already supposed

to be the guardian of such sentiments. The united resistance of that class in both countries might prove as faint as it has been in the past in the United States. If not themselves swept from their standards by the prevailing tide of party morality, its members would seek refuge in their counting-houses, to forget politics in business: or divert themselves with culture and luxury, fashion and field sports; or, in the last resort, they would retire to Europe, and abuse their country from a safe distance.

Under the circumstances a reasonable settlement, or reconciliation, by diplomacy and treaty, of questions of international right and wrong, is becoming a thing hardly to be hoped for, at the hands of two modern representative Governments, each subjected to the corrupting influences of the party system. Every argument that is used to convince one Legis-

lature is made in the hearing of the other, to be wrested to the advantage of a not too scrupulous opposition.

It would be a great gain to rescue questions of international justice from this miserable interference of party politics. But the way to attain that desirable end is certainly not by yielding to the debased view of human civilization for which Party is responsible; least of all by making yet more unwieldy the masses to be abandoned to those reckless hands.

When Senator Sherman revives the apprehension of Franklin, and for remedy repeats his proposal to extinguish the independence of Canada, Canadians, in answer, will reiterate the reply of Shelburne:—"Let a more friendly means be found."

It was a "more friendly means" that was resorted to in 1871, when the differences that had long been threatening the

peace of the two countries were submitted to be determined by an International arbitration. Under the circumstances and feelings of the period the act was a great one. It was a bolder and more difficult step for an English statesman to carry through than it was for the American Government. On both sides it was a marked step in the cultivation of the spirit of international charity.

Just as the treaty of 1854 had temporarily filled up the lines of the old Treaty of Partition, in respect to mutual freedom from narrow and annoying trade restrictions, so the treaty of 1871 tended, also temporarily and incompletely, towards realizing another part of the great plan, by which, in 1783, the broad and fertile mind of an English Liberal statesman seems to have anticipated the spirit and methods of a century later.

It is difficult to believe that these two

nations are not ripe for a more civilized, rational, and regulated provision for adjusting their disputes, than war. Peace between the members of the English speaking race is too grave an interest to be allowed to rest upon fluctuating sentiments and agreements; it ought to be securely founded upon institutions. Institutions, I believe, are not only possible, but eminently practicable, under which international war between those nations will become an occurrence not absolutely impossible, no doubt, but at least rather less probable than civil war.

Already, I believe, even in the midst of the conflicts of the Eighteenth Century, Lord Shelburne's fertile and comprehensive mind had revolved the outlines of a far more perfect and systematic scheme than international arbitration, for securing the perpetual peace of the kindred nations.

Consenting, perforce, to the absolute independence of the old Colonies, incurring obloquy and risking ruin by the splendid completeness which he impressed upon the Treaty of Partition, Lord Shelburne still cherished the hope that the future would see the renewal of some kind of union between the elder and the new nation. Lord Shelburne's private opinion (he had written to Oswald, his agent in the negotiations at Paris) would lead him a long way towards an ultimate Federal union: though neither of the two countries, it was plain, was then ripe for it. The time was not ripe; but "means," he wrote, "must be left to advance it."

One of the most necessary features of a Federal compact* is a common tribunal for the decision of controversies be-

* Perhaps the *only* essential feature of future federations. See Chapter III.

tween the constituent States. Such a necessity was recognized, when, soon afterwards, the American Federation was consolidated into a permanent union. A Supreme Court was established at the same time, to secure peace and justice between its component units.

Knowing that Lord Shelburne had the prospect of Federation in his mind, when he predicted, in his reply to Franklin, that "a friendly means" would be found of securing peace, is it difficult to believe that he had in view the establishment of something resembling a permanent International or quasi-Federal Court, to adjudicate all future difference between the two countries: countries which though independent, were to be as nearly as possible one?

The difference, whether in legal conceptions, in institutions, or in interests,

between the United States and any nation of the English Empire, is not perceptibly greater than exists between any two adjoining States within the Federal Republic. When the Supreme Court of the United States was created, the relations of the States towards each other were marked by the utmost degree of mutual jealousy and distrust. Internal causes of future difference abounded between them in scarcely less degree than between the Confederation and the Mother Country.

Yet, in a period that was presumably much less civilized than our own, the many remote and originally independent States forming the Union became satisfied to be bound by the judgment of its Supreme Court. That court has continued in existence for nearly a hundred years; and although it is constituted of citizens of

States that may be in controversy, its decisions have continued to be received with great respect. It is hardly an extension of the principle, that has worked so long and admirably, to create a like Court, before which claims and counter-claims arising between the two countries, whether on the construction of treaties, or on moot points of international law, or the like, may be referred:—not after long embitterment, by the protracted international wrangle that generally precedes the selection of a special court of Arbitrators; but as a matter of course.

The international court might very easily be created, by the appointment of a standing quorum, selected with joint assent,—on one side, from that most distinguished body the United States Supreme Court,—and from the Judicial Committee of Her Majesty's Privy Coun-

cil (which is the Federal Supreme Court of our Empire), on the other.*

The new Court once constituted, reference to it would be morally (rather than in form) compulsory. Proceedings before it would naturally take a form analagous to those with which we are familiar upon a Petition of Right against the Crown. The aggrieved Government would communicate a statement of its subjects' complaint, craving a reference: and, through compliance with the dignity and honour of Nations, the Government appealed to would inscribe, upon the petition against itself, the ancient, and truly Royal, formula:—"Let Justice be done, as Right shall appear."

In the complete judicial system of a

*The truly Federal nature of this Court, and particularly the manner in which Colonial rights might be expressly represented by it are touched upon in the chapter on the Constitution of the Empire.

nation there are two elements of compulsion giving authority to the court: namely, compulsory reference, and compulsory submission to the determination when pronounced. The first of these is as much as can be hoped for between two nations. But a great point would be gained, if subjects of either government could appeal to a common authority, to discern right and justice, although no process existed to compel obedience to the decree.

While these pages were partly in manuscript, I read with much interest and pleasure the sketch of a yet broader scheme that had been presented at the meeting of the American Bar Association, in September, 1889; when one of the most eminent members of that body surpassed the above comparatively modest proposal by suggesting the establishment of a *universal* international tribunal.

That prospect all friends of humanity will take liberty to hope for, in the ultimate future. But I venture to urge that the great movement, towards the voluntary submission by nations of their rights to an international court, ought to proceed, and will proceed, slowly and with the utmost prudence. To demand at once a general agreement to submit to the adjudications of an untried combination of jurists, trained in radically different systems of law, (perhaps even imperfectly acquainted with any common language,) is expecting too much. If so unlikely an experiment were to be agreed to, at the inception of the principle of international tribunals, it might not advance, but imperil the permanent acceptance of the institution. The power of courts is, after all, chiefly a moral power. Their beneficial influence rests largely upon the degree in which *personnel* and

conduct command the confidence of the people. The spectacle of disagreeing courts, divided perhaps upon the lines of legal education, or racial tendencies, might irretrievably damage an international court in the estimation of the great public, from whose respect it must derive its authority. Until the United States and the British Empire—two States inhabited by people chiefly of one race, trained by one system of education, and the same general ideas of law, morals and government—are able to confide the determination of their larger issues to judges chosen jointly from their own highest courts, it is useless to ask them, or other nations, to adopt a larger and much more intricate scheme. The spirit of distrust is still abroad, and distrust, if it did not prevent the experiment, would probably prove fatal to its success.

The reluctance of nations to submit their

disputes to the decision of any kind of peaceful tribunal is due to a lurking dread, on one side or both, that the chances of litigation may result in something less than complete justice. The objection to an international tribunal because it may prove to be fallible, exhibits an imperfect appreciation of the historical merits of the institution of courts, whether international or municipal. Where no tribunal exists for the redress of injuries and the settlement of disputed rights, there is the sense of injured honour, more than the value of the claims at issue, to drive men to war. The same instincts of human nature, which rule individual minds, govern the relations between masses of men acting together as nations. Although justice is not often the result of war, human nature is not yet prepared to accept, without qualification, the copy-book saying, that "the most unjust peace is preferable

to the most just war." The hesitation is natural, and perhaps wise. The pride of honour, which often leads nations to blood, has a rational foundation, by no means discreditable to our nature. It derives its force from the secret sense, that abstract right and justice must on occasion be upheld at any cost: that if individual rights cease to be maintained against oppression by courage, the principle of Right, upon which peace and order are founded, may ultimately succumb to the anarchical principle of Force.

Seldom in modern times does an absolutely clear cause come to the rude decision of battle. War generally occurs when both parties are equally and irreconcilably convinced of the justice of their respective contentions. Then men, rather than yield to what they believe to be an injustice, mutually appeal to the arbitrament of War, the mother of all wrongs.

In the early state of modern Europe war, public or private, was the only method known to custom of settling disputes, between States or between subjects. International war, for the settlement of public disputes, is only the final survival from a period when private war, also, was a recognised remedy. One of the first steps towards the institution of tribunals of law was a mere mitigation, by regulation, of the forms of private war. Men were induced to accept the battle of champions, under set rules, as a substitute for individual and family vengeance: for the fatal chain of the *vendetta*, and for the chances of partizan warfare on a larger scale. Early in the internal history of all individual nations, the agreement to recognise that an imperfect tribunal is better than none at all has become the first principle of civilized order.

Thus the argument for tribunals of law

does not depend upon any expectation that they shall invariably distribute *absolute* justice. It is hoping too much from the best known Court of Law, to expect it to administer what both parties will admit to be perfect justice, in more than the average of cases. Not only are men clothed with judicial authority necessarily dependent upon human appreciation of testimony, but they are bound by general rules of decision; and general rules, necessarily arbitrary, sometimes work hardship.* It is the wisdom and beneficence of the modern judicial system, in its later approach towards perfection, that leads the imagination of men to invest that institution with an ideal character higher than it yet deserves. Its true justification is that it satisfies a need of human nature.

*For generations the Courts of England were employed in fitting popular English notions of right to the

The habit of referring disputes to an agreed tribunal, whose decision is to be loyally accepted, even while its conclusions may be dissented from, is the happy reconciliation of the sense of right and the claims of personal honour, with the dictates of reason, and the interests of humanity.

The merits of courts of law, as an institution for the preservation of peace, consistently with honour and (in the average of cases) with justice, are not confined in application to private controversies. For all disputes, (at least over issues not absolutely vital to the independent existence of one or other

---

Procrustean bed of the system of Feudal law. In later times the fundamental conceptions of that highly artificial system are being steadily repealed and abolished by the action of Parliaments and Legislatures in all English speaking countries. The same Courts, as an educational agency, are compelled to retrace their steps.

Government,) an international tribunal will enable both to secure the perpetuation of peace, without the loss of honour. Where, as in the case of the English nations, all are accustomed to the same system of law, and all possess the material of a judiciary commanding universal confidence, a common Court becomes not only a possible, but an extremely natural institution.

The reign of International Law will not become established, until an International Court has been substituted for the mere possibility of an occasional resort to voluntary arbitration. The true advantages of the application of Law to the relations of nations will begin to be fully felt when such a standing institution has been for some time in existence. The difference between the two methods is immense. A Court, in the first place, would not be a committee of referees

selected *pro lite acta,* but a regular and permanent Court of resort. Recourse could always be had to it promptly. The long and perilous process of irritation, which now too often precedes an agreement to submit a case to international arbitration, would be saved. The invidious selection of special arbitratiors would be dispensed with. There would be no opportunity for unseemlv recriminations, such as followed the award of the arbitrators under the Treaty of Washington.

Thus administered by a regular procedure, international law would become an educating force exerted upon the people of both countries. For the purposes of morality and justice, the two nations would have entered into the same relations as exist between the sovereign States composing a Federal Union. Right and justice between Gov-

ernments would be placed upon the same level as right and justice between individual subjects. They would be removed from the realm of violence, passion and political chicanery, and lifted to the serene jurisdiction of Law. In course of time ideas of international conduct would be developed similar to those which, through the long existence of Civil Courts, now rule over the spirit of private quarrels. A recourse to arms between the two peoples, over questions of territorial or other property, or over alleged wrongs to their subjects, would come to seem as atrocious, as absurd and out of date, as it already appears to us, when we read of two neighbours undertaking to settle their boundary disputes with shotguns.

The idea of human society, of which a common fountain of justice is the bond, has gradually expanded. It has grown from the village to the Barony,

from the Barony to the nation. Now, surely our civilization is ripe for an advance beyond that stage.

On one of the enormous weird canvases of a well-known Flemish painter* is represented a group of the Men of the Future, examining some implements of war turned up by their plough. The gigantic beings, holding the rusted cannon, and other weapons, in the palms of their hands, are scrutinizing them disdainfully, as the curious remains of an extinct civilization. Such a faith Shelburne—perhaps Jay and Franklin also—seemed to entertain, regarding the future at least of these communities of the English race. The consummation of the painter's dream and the statesmans' design, if not yet attained, let us hope may be not far distant.

*The picture referred to is in the Wiertz Museum, at Brussels.

The announcement to the world that the two great English Republics had agreed to the joint establishment of an International Supreme Court, in order that thereafter all their controversies might be determined by law, and not poisoned by politics or perplexed by diplomacy, would work a revolution in the diplomatic conditions of the world. Its moral effect would more than equal that which would be produced by the conclusion of an offensive and defensive alliance between the two countries. Military alliances are, by their nature, temporary and revocable; but a union of peoples by community of law is a bond whose strength time and custom can only affirm. Jay's prediction and the grand Covenant of the Treaty of 1783 would be fulfilled. While separate Governments would exist for purely municipal purposes, the two nations would, in all essentials, become as one people.

To reiterate the prediction contained in the opening pages, the time cannot be far distant when hostility, or even jealousy, between such neighboring communities, devoted to objects common to our race, will be thought as absurd as for one County to be jealous of the municipal existence or well-being of the County next it.

At least the time, surely, has arrived when both Canada (the frontier Dominion of our great New Empire) and the United States ought to frankly accept the results of the great Partition, as final, and loyally endeavour to work out the spirit of that compact.

I may be able to show that these nations have more to gain by the establishment of an International Supreme Court than the removal of the dread of war. The establishment of international justice might be found to fortify the

cause of popular liberty. As justice is essential to liberty, so peace and freedom may advance hand in hand.*

Is there any other rational object of political endeavor than right government and the happiness of the people? The whole English race is engaged substantially in the same noble work: the spread of its inherited institutions and principles, the development of the cause—abused and betrayed, but still great—of Freedom. It will be better for the two branches of that people to give their attention, not to reviving historical quarrels, nor to the cultivation of international jealousies, but to independent efforts at improving what is

* In Saxon English the same word, "Frith," expressed both ideas. When the writer of the Saxon Chronicle desired to describe the effects of the strong government of Henry II., suppressing the miseries that marked Stephen's anarchical reign, he used a Saxon word whose signification included both peace and freedom. "*Frith*," we read, "made he for man and beast."

incomplete and remedying what is defective in that, their great, common object of national endeavor. No doubt the prospect of adding domains, of changing the political status of a neighbor, still addresses itself to the ambition of politicians. They would still feel pride in such an achievement. They would greet it with the same chorus of self-congratulation, as if they had thrown some new and still more ignorant suffrage into the political whirlpool.

But for statesmen and for patriots, the practical question in our time is whether, in the United States, in England, in Canada, or elsewhere in the Empire, Free Government has attained the limits of its perfectibility. From all the English nations must come the same answer. That perfection is still far off. We are really but midway in the struggle for the blessings of a true freedom in government. At its present stage Representa-

tive Government has only succeeded in effecting for us a change of masters. Tyrannical power has been wrested from the hands of kings; but it has been converted into a tyranny of parties, and of their demagogue leaders. It is doubtful whether the second state is not in some respects worse than the former. Our present despot is certainly far from being an Angel on the Throne.

The best citizens of these two countries will find a necessity for being mutually helpful in this continued struggle for freedom. The task of our day will be to obtain deliverance from party corruption, as we once were freed from royal absolutism. On both sides of the boundary line, those having this object sincerely at heart will have enough to occupy their energies.

"The real difficulty in the way of a final settlement of the fishery dispute,"

wrote a thoughtful American,* is its intimate connection with other grave problems. With the Americans the quarrel over the North-eastern fisheries is closely connected with domestic differences relating to tariff and revenue reform. The Canadians cannot separate it from the great questions of commercial reciprocity and Imperial unity. The Englishman thinks that at the bottom of the whole matter will be found his ubiquitous enemy—the Irishman."

International differences thus become a cause of additional complication in election issues. A question of foreign relations is readily converted by the recklessness of demagogues into a formidable weapon in the arsenal of party. In the history of every free country examples may be found of wasteful, even corrupt, govern-

* Eliot. The Fishery Question.

ments long sustained in power by the popularity of a "spirited foreign policy."

Hence the institution of international tribunals would be a step toward a reform of the corruptions of internal government. By it something, perhaps as much as can be hoped for, would be done to simplify the responsibilities of Executive Government, and to leave its acts of internal administration to be more amenable to intelligent support, or effective censure.

Under the representative system of Government, questions are not actually submitted to a direct vote of the people. Their opinion is given, in an indirect manner, in the process of choosing officials and delegates. At these elections the people express their approval or censure of what has been done in the past, and communicate their mandate for the future. Thus a kind of informal plebiscite is sup-

posed to be taken. As a rule, the electorate is addressed by two parties, and is asked to render a verdict between them, like a jury.

In jurisprudence, when the opinion of a jury is to be taken upon a case, particularly if it is much involved, it is a very common practice of judges to unravel it into the form of a series of questions, directing the jury to return to each of these a distinct answer. Where the public will is being consulted, equally as in the submission of a case at law, the first requisite for a just and intelligent verdict is perfect simplicity in the form of presenting the issue.

Simplicity, in the absence of plebiscites (the Swiss *referendum*), cannot be made complete; the question is, can it be attained sufficiently for the practical purposes of a well-ordered system of government?

The authors of the Virginian Bill of Rights of 1776 stated one well-settled principle: "That the legislative, executive, and judicial authorities should be separate and distinct." It is indispensably necessary to good government, and rendered essential by the English Constitution, said the framers of the Declaration of Rights of 1774, "that the constituent branches of the Legislature be independent of each other."

The endeavor to enforce this grand distinction, between executive, legislative, and judicial offices, has been less successful, because the distinctions have not been carried far enough. They stop short of a natural classification of functions, and leave, in consequence, confusion. Divided duties are thrown upon the Executive.* While it has the care of

* In another place I have endeavoured to draw attention to the necessity of further distinguishing the pro-

internal administration on the one hand, it is charged with the conduct of Foreign Relations, on the other. The former duty generally presents a plain, intelligible issue, of prudence or recklessness, honesty, or corruption; but the other raises questions of diplomatic discussions, and intricacies of treaties. It appeals to international enmities, and has always in view the last possible eventuality of War. Foreign relations, since they approach this point, arouse passions and sympathies that themselves create divisions in an electorate.

The last Presidential election in the United States turned on three issues. First, and most properly, the people were to pass upon the merits of the President's administration. The efficiency of his Exe-

cesses of legislation also, according to their two elements — *deliberation* and *enactment*.— *The Irish Problem*: Chapter on Industrial Parliaments.

cutive Government, the sincerity of his policy of Civil Service reform,—these, one would think, were fair questions to divide men, according as they favored good or bad administration, or as they held particular views of what constitutes good or bad administration. But in that election those questions of internal administration seem to have been almost wholly dropped. They were mixed with two other issues, one of which appealed to clannish interests, while the last was made to appeal to clan passions. Foreign relations, internal administration, and the tariff, thus mixed together, were thrown at the heads of the American people.

The meaning of a verdict at the polls, upon such mixed issues, must be to a great extent guess-work. It is this confusion which gives importance to a

selfish or unpatriotic class vote, like that of the Irish. The confusion of objects of administration becomes a double-edged evil. It wounds the people in their internal interests, while it leads to violation of honor and justice towards foreign nations. In the bidding of two sets of American citizens against each other the balance comes, only too often, to be swayed by some compact, unscrupulous Prætorian constituency.

Had it been known that all the questions relating to the fisheries on the Atlantic and the Pacific were not to be Irish questions, or Alaska Company questions, but were questions of law to be determined by an international tribunal, the late Presidential contest would have been reduced to a much simpler issue. It would have been brought much nearer to a single question: that which, in accordance with the Con-

stitution, was alone appropriate in connection with a Presidential election—the question whether Mr. Cleveland's policy of administering the Government, and particularly the law of Civil Service reform, was, or was not, fit to be approved by the country.

We ought to be sufficiently impressed with the horribleness of this system, under which a man like Mr. Cleveland, who had almost revived the tradition of honesty in politics, finally gave way. He judged himself to be justified by party necessity in turning upon a neighboring, friendly people, and holding them up, by misrepresentations, to be the object of unjust anger amongst millions of their kindred. Must not right-minded men come to an agreement that the time has come for bending their energies, simultaneously, to the deliverance of our respective countries from this system of

Jesuitry—this machinery of falsehood—this perpetual hoping for good to come, through doing evil?

Playing with public questions in this manner is a universal habit, for which we may thank the modern development of party. If I select recent events in the United States as an example of a habit which is not confined to United States parties, it is not only because in that rich and ample soil the tree has flourished and attained its most conspicuous expansion, but because it has there achieved its most extraordinary triumph. It has overthrown a system of elaborate safeguards, expressly erected against it by the foresight of the designers of one of the best considered of modern Constitutions.

The peril which is now threatening the best interests of the people in that country is one which the framers of the United

States Constitution foresaw, and thought they had effectually guarded against. No more startling evidence of the revolution which the principle of party has the power to work could be given, than what has taken place in the United States.

The opening line of the first article of the Constitution of the United States, is according to the principles laid down in 1774. It declares that all *legislative* powers therein granted "shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives." Article II. declares that the *executive* power shall be vested in a President of the United States of America. The office of President is charged with the responsibility of administration. As (with the rare exception of the veto power) it has nothing to do with legislation, a distinct process of

election was carefully provided. A body of electors was to be chosen for the special act of nominating a President for the Republic: thus distinguishing, as far as it was possible to do, that duty from the function of electing representatives to the legislative body. Of course, it was expected that the acts of a President as an administrator would furnish the test question of the Presidential contest. Yet what we saw in 1888 was that the main issue of that year was one concerning a change in the tariff,—a change purely of a legislative character, and which, under the Constitution, can only be initiated by the House of Representatives. Thus while the intent of the Constitution was to rigidly separate the executive from the legislative, appointing to each its own functions and responsibilities, and its corresponding process of election Party, on the other hand, has learned to

convert executive office into a lever upon the legislative power, and to make legislative power useful as a means of purchasing popular support towards securing possession of office. The distinctions of the Constitution are abolished. State and Congressional representation are confounded. The country becomes a continuous battle-field. The militant organizations, always in the saddle, are swift to swoop down upon *every* popular election, from the offices of a village municipality to the Presidency of the United States. Written Constitutions are but cobwebs opposed to the embattled rush of parties. *Inter arma silent leges.*

Freedom, it is beginning to be seen, possesses no magic in itself to confer virtue on human nature. It is only a glass through which we are enabled to

see the passions and character of the nation moving without concealment. No system can have power to grant absolutism from the law, that vigilance and effort are the constant conditions of liberty. Not even the United States can afford to dispense with that oldest watchword of freedom. But a system may be so bad that vigilance is paralyzed, and effort wastes inself in vain. This, I fear, is scarcely too strong a description of the present condition of free peoples, in their struggle with the party system.

Our business should be to make an attempt to redeem free government from the dishonor into which it has gradually, but surely, been falling before the world. It is in the interest of the people, of both nations, that a solemn League and Covenant should be formed for these purposes between them.

The worst evils introduced by party, that have confounded all the anticipations of the working of free government, are traceable to the confusion of objects before the mind of the electorate. It is this which puts the whole people at the mercy of those who pull the wires of the party machine. Therefore, against confusion let us strive for simplicity. As far as possible let us reduce the number of issues which party can throw at the heads of a people in an election. The power of party is minimized with every subject which we remove from its jurisdiction. In the case of international issues an evil comes from leaving in the hands of the Executive a duty which, in principle, belongs to the *judicial* branch of Administration.

The evolution of civilized morality has surely gone far enough to leave no

doubt in the minds of our two peoples that, theoretically at least, the relations of nations should not be determined by caprice, but by rules of justice and morality. It will be admitted that the application of these rules belongs to the judiciary. Does it not follow that, for those purposes, a proper court should be permanently constituted? Then the same means that would secure the preservation of peace would in its turn tend to the purification of government.

In the degree in which it would transfer a whole class of subjects from the domain of diplomacy to that of law, it would, by that very measure simplify in part the complications which, perplex internal administration. It would materially help towards the redemption of popular government from degradation and discredit.

It is clear that many cases arise

between the United States and Canada, not out of the existing treaties, but out of the absence of treaties. Until a new and comprehensive treaty has been once more agreed to, the relations of the two countries will never be satisfactory and assured. An international tribunal may decide, but will not obviate, disputes. The proper function of a court is usually limited to the adjudication of issues arising out of the construction of existing treaties or the application of understood rules of international law. Yet, although it is not customary to entrust such bodies with the making of treaties, it is conceivable that the practice so successfully inaugurated by the Massachusetts Railway Commission might enable an international tribunal not to make, but to pave the way even to a commercial treaty. That is, its members might be asked, after examining the subject and

hearing witnesses, to join in recommending a basis of treaty settlement of international trade relations. The Supreme Bench in the United States, and the Privy Council in England, often form the retiring place of lawyers who have coupled distinction in public life with success at the bar. Seldom is the material of statesmanship wanting in the *personnel* of these Courts. Their recommendation might or might not prove acceptable to the different contracting nations; but it would be presented for adoption or rejection, free from the prejudice of being the proposition of a party Cabinet, submitted, as has not unfrequently happened, for the consideration of a majority of the hostile party, in the Senate.

May not this generation be permitted to see the great design of the framers of the Treaty of Partition and Covenant of

perpetual Peace accomplished in its perfection? With language and political institutions derived from the same source, with a common fountain of justice, with unnatural trade restrictions removed, will not everything that can be hoped for be accomplished? The two nations will be substantially one people.

Forming, virtually, one commonwealth as respects the relations between their respective citizens, the two great States may be destined to discover an increasing tendency towards unity, even in their foreign policy. In what quarter of the world could the greatness of the British Empire be diminished, without damage to the common interests of English civilization? What aims has England in which Americans ought not to sympathize? If she has enemies, is it not for causes wider than her own interests that she confronts them?

Some thoughts upon certain modern aspects of the Eastern Question, and the identity of English and American interests therein, will be found in an appendix. It sets forth some purely speculative suggestions, and intrudes upon a distinct ground, where the writer, necessarily, can only tread with the utmost diffidence.

III.

THE CONSTITUTION OF THE NEW EMPIRE.

The cultivation of a public policy befitting a race, fundamentally united in its moral aims and political destiny, though sundered politically into two distinct nations, or aggregations of nations, is a matter for patient zeal and labour, and is deserving of both. We have been carried to a common point in the past. We have revived the recollection of a rare moment of worthier statesmanship: when in a few minds, in both of these two great nations, high hopes were simultaneous, and conceptions beyond the range of a local patriotism were entertained. It may be useful to attempt, however inadequately, a sketch showing

how, after the errors and disasters which destroyed the Colonial Empire of the 18th century, a great united Empire has re-arisen under the English flag:—how the new Empire is already knit together by a constitution, unwritten but observed; and how that constitution, based on principles more ancient than our law books, is more nearly akin to the constitution of the Great Republic than is commonly supposed. In the similarity there is, it may be believed, a promise of equal permanence, and also, it will be hoped, the best assurance of international friendliness.

"When we have accustomed ourselves to contemplate the whole Empire together and call it all England," a modern Oxford Professor of History tells his students, "we shall see that here, too, is a United States. Here, too, is a great homogeneous people, one in blood, language, religion

and laws, but dispersed over a boundless space."*

Such is the doctrine which forms the key note of Professor Seeley's not least eloquent work, "The Expansion of England," received with so much interest and acceptance in all parts of the Empire.

This modern English authority adopts the claim made a century ago:—that Englishmen carry the birthright of their liberties *wherever* they may settle under the flag: that the Colonies form, with the mother country, one realm inhabited by *one people.*

Professor Seeley, using almost the language of Washington, and repeating the very argument of the Declaration of Rights issued by the Colonists from their Congress of 1774, expresses a conception which, (though not yet formulated

*"Expansion of England."

by lawyers) is now virtually acted on in our government.

The Australasian Federal Council, created by the Imperial Parliament in 1885, is upon almost the precise lines which Franklin had mapped for a union of the American Colonies in 1754. The only variations in the modern scheme (about to be superseded by a scheme yet more advanced) are in the direction of greater liberality, as compared with its prototype. Quite as significant as the contents, of the silent change the century has wrought, was the very *manner* in which this Act (and also that which preceded it, creating the Canadian Confederation), became law. Both of these important Imperial Constitutions were entirely the work of Colonial statesmen. Probably not a line of important amendment can be found to have been inserted in the drafts as submitted to the Imperial

Parliament. The latter body almost confessedly acted as if it considered its function to be that of a mere Registrar of the resolutions, proceeding from the Colonial Legislatures: who on this subject were regarded as chiefly interested, and hence entitled to be the real authorities.

We have seen that the note of Imperial Federation, startling to the ears of modern Americans, was sounded in the 18th century. The very word was uttered by Lord Shelburne; and the idea was familiar to the great colonists. The vision of a union founded on the idea of a citizenship extending throughout the English Empire, which arose in the 18th century, the age of steam and electricity promises at length to convert into a reality.

English and Colonial statesmanship of

to-day is occupied in gradually re-creating the grand ideal of free and world wide union, which Washington and some of his contemporaries were the first to cherish; but relinquished with reluctance under the circumstances of times when it was impossible of accomplishment.

Truth, which has often been compared to light, seems to be obedient in certain respects to similar laws. Conceptions, originated in former times, perhaps in some lonely intellect, pass through the long interval like a ray, invisible and unrecognized, till they re-appear in broad reflection from the minds of a later generation.

We learn better to understand the thinkers of the past as we re-tread their steps. The Modern, in his search for truth, peering intently into the ancient well of human thought, often discerns

at length, at the obscurest depths, a countenance like his own, that seems to be returning his gaze.

A single generation, in this century of anniversaries, will soon have witnessed the centenaries of three great dates in the history of the British Empire, critical in the political progress of the whole English race. One of these occasions has been celebrated with great and appropriate *eclat;* one passed in unnoticed silence: the third is almost at hand. Of the two dates the centenaries of which are already past, one was 1760, the year when the Conquest of Canada had consummated the old Colonial Empire, and raised it, militant and overbearing, to the height of its glory. The other was 1776, when the blow was struck under which the ancient structure began to dissolve away. But a third, and for us a greater, anniver-

sary will arrive in 1891. 1791 is memorable as the date of the Act which set apart the new Province of Upper Canada to be the home of English emigration. (Three years earlier the first settlement had been made on the Australian Continent; where Captain Cook, in 1777, had laid the foundation of a new Colonial realm, at the moment when George the Third and his Cabinet were causing the loss of an older one).

The Constitution granted to the new Province (and to the sister Province of Lower Canada), in the words of Governor Simcoe to his first Parliament, was "no mutilated Constitution, but an image and transcript of that of Great Britain." The Canadian Constitutional Act created the first of the modern Colonies. The rights of self-government guaranteed to the inhabitants of Upper and Lower Canada did not originate by the capricious grace

of a Royal Charter, but by a full, irrevocable cession of powers from the whole Parliament of the United Kingdom. This is what chiefly distinguished the Canadian Constitutional Act from the charter of the older Province of Nova Scotia, and from the charters of all former Colonies. It was not a charter, but a Constitution. It was a recognition of one of the contentions that had ended in the American Revolution: that charters of self-government were vested rights of the people, not transitory creations of the Royal will. Along with the clauses establishing the Local Legislatures, there was a clause declaring that there should be *in Canada a Council for the affairs of Canada.* It is this Council, commencing in the eighteenth century, as an engine of the Prerogative, which, by successive enactment and by steady practice, has developed into complete Constitutional

Government: such as obtains to-day in all the chief Colonies of the Empire.

Thus the Canada Act of 1791 contained within itself the prolific germ of all that constitutional progress which has since been effected throughout the modern Colonial system. The foundation of Upper Canada was the beginning of the New Empire.

The action of the Canadians in 1812 was the first decisive declaration of Colonial constancy to the modern Empire. It reassured Great Britain, as it surprised the United States. The United States Secretary of War had assured Congress, then deliberating over a declaration of war, that Canada could be taken without soldiers. Congress had only to send officers into the Provinces, "and the people, disaffected towards their own Government, will rally round our

standard." After three fruitless campaigns the Americans were undeceived.

It was chiefly native militia that held the Provinces for the Empire. The volunteers of York and Lincoln received the shock of invasion upon the heights of Queenston. The vigour of a French Canadian seigneur (De Salaberry), with his hardy native contingent, decided the fortune of the day at Chateauguay.

The gallant loyalty of the Canadians on that occasion was doubly decisive. First, it preserved the predestined keystone of the modern Empire Next, it must have had its influence in smoothing the way of constitutional development. The defence had brought upon the poor and scattered population of Upper Canada all the sacrifices and sufferings of war. We can decipher, from the quaint and mossy stones of the border churchyards,

pathetic evidences of the miseries of that trying period. Beside the monuments of youths fallen patriotically on the battle-field, we read a more piteous record, in the names of mothers and children, perished under the hardships of their winter flight from the devastated towns; and the story of old men, who returned after the peace only to sink broken-hearted over the wreck of their homes and fortunes.

Thus the frontiers of Canada, now indelibly re-traced in blood and patriotic suffering, ceased to be a mere imaginary line, marked by diplomatists upon the map of the continent. At the same time the splendidly courageous defence made by the Canadian people, both French and English, in the war of 1812, not only furnished a romantic page to our local history, but was also an important step towards Colonial Constitutional develop-

ment. Till that time, since the loss of the first Colonies, Great Britain had never had a firm faith in the allegiance of those that remained. But the confidence now established in Colonial popular loyalty afterwards formed a powerful argument for concession to Colonial claims, when the time came for complete internal freedom of government to be demanded.

There is in States a development equivalent to that which takes place in the constitution of individuals. The rights of manhood are subject to the limitations of minority; and to become a nation, as to become a man, demands the attainment of a certain relative size, strength of limb, development of structure, and experience of self-government. But a time comes when the Colony has grown to its full stature—when its inhabitants become entitled to enter their claim to a complete citizenship in the Empire. The precise

date and circumstances at which this relation to the Empire is attained by any Colony must be determined, in each case, not by population alone, still less by the area occupied by it, but by many circumstances of relative distance, population homogeneity and political character.*

It is the surpassing merit of the British Constitution that it is not a written rule, but a living system capable of development. Insensibly, as the bark expands around a growing tree, the Constitution expands to accommodate the developing life of the people. It accomplishes by

* There was a time when it was wont to be said of Newfoundland that that Island was to be regarded in law as a British ship anchored in the ocean. In that light, some remote settlements and stations must perhaps always be content to regard themselves. Even a million of inhabitants, of whom three-fourths are Africans or of African descent, or who are divided by irreconcilable barriers of caste or religion, will always present a very different face politically from the same number of men all of European descent, trained by centuries to a common allegiance to the supremacy of reason and liberty.

evolution what, under other systems, cannot be effected except by Revolution.

Even the ancient law books acknowledge the fundamental principle that when a party of Englishmen land in a new, uninhabited country, they carry with their flag the English Constitution, and the germ of so much of English laws and institutions as are suitable to their new situation. And just as the principle of English law moulds itself to the varying circumstances of place and distance, so history shows it to be responsive to changes brought about by time.

Imperial Federationists have laboured, in the past, somewhat mischievously, to impress upon the Colonies that the time was at hand when some great new departure must be taken. Canada, for instance, must elect for Federation, for Independence or for Annexation. Federation has thus been put upon the same footing as

its alternatives. As propounded, by confession, one would be, like the others, a Revolution. Such a revolution was represented to be a condition precedent to a future union. This view affronts the instinct of those who feel that the Empire already possesses an inherent and enduring principle of unity; and at the same time it fatally and unnecessarily affronts a patriotism of another kind. It seems to threaten the principle of complete local autonomy, so dearly cherished by the inhabitants of all the great self-governing Colonies. This whole attitude implies that the Empire, as an association of nations, has not at the present time any Constitution: and that for the free and equal union of its many nations a legal basis has yet to be sought. Some new principle must be adopted; and, to give it effect, novel constitutional experiments must be ventured upon. The position

taken appears to me to rest upon an absolute misapprehension of the present constitutional relation of the Colonies to the Empire.

Not by concession, but of right; not as a matter of sentiment, but as a principle of fundamental law, we, the freemen of the Empire, claim all the qualities and incidents of a full and equal Imperial citizenship, whether our homes are in Great Britain, in Canada, or in Australia.

The elastic principles of the British Constitution offer every convenience for the completion of a development, which is enabling each great Colony to combine an internal system, amounting to independence, with a portion in the unity and power of a great Federal state.

Because of that elastic and growing quality in our institutions, because our Constitution is English and not Chinese,

our Empire does not stand in need of any novel machine-made union. A certain organized unity already pervades its structure, and its ancient and living constitution. We may look forward with confidence to a perpetuation of the union by gradual reforms, without any violent changes. We are under no necessity of staking everything upon far-fetched paper Federations, to provide for contingencies not yet arisen. We may rely upon Time, as it unrolls new necessities, to also provide sufficient ways of meeting them.

But many Imperial Federationists seem to be still wandering in the darkness of 1774. They conceive no other Federalism than the centralized model that they find embodied in the Constitution of the United States, (itself an imitation of the centralized Royal prerogative of the last century). They do not give proper weight to the enormous change that has

come over the English Constitution since the period of the American Revolution. Imperial Federation was dreamt of by Washington in America, and by Lord Shelburne and his school in England, upon the same basis as modern enthusiasts are urging: that is, upon the basis of Colonial representation in the English Parliament, or in some substitute, of a like centralized nature. That basis, admittedly impracticable a century ago, is really not less so now. But the new theories, that have grown up in the meantime, open an ampler door to a workable constitution, and to the permanent consolidation of the Empire.

If the author of *Ecce Homo*, from an Oxford chair, is now impressing upon the future statesmen of England the inspiring conviction which had been first expressed by Washington and his contemporaries, it is because, parallel with the growth of the

new Colonies, the English Constitution itself has undergone a great development in the intervening century. While the increase of the Colonies has revived the dream of 1774, the growth of the Constitution has made it practicable to give effect to what must otherwise have remained a mere sentiment.

When Governor Simcoe opened the first Parliament of the newly created Province of Upper Canada (the first born of the new Empire) and announced in his first Speech from the Throne that it had been given a Constitution, which was "no mutilated Constitution, but was in all respects a transcript of that of Great Britain," part of that Constitution was a Crown-appointed Executive Council, with no responsibility to the Canadian Parliament or people. Yet General Simcoe's statement was correct. The irresponsible Council, destined to

disappear within a generation under the energetic protest of 1837, did but reproduce the idea which, in 1791, was entertained and acted on in England itself regarding the substantial extent of the royal prerogative. It was the same theory that almost at the same date the Federalists were deliberately inserting into the new Constitution they were drawing up for the United States. The President of that nation is an elective Sovereign, endowed (for his term) by the fathers of the Constitution with the prerogative of George the Third. To that model he owes his personal discretion in the selection of his irremovable Cabinet, and his wide independence of the other branches of the Legislature.*

But since that time, while the American

*This has been clearly and conclusively shown by such recent critics as the late Sir Henry Maine in his *Representative Government in America*, and Prof. Bryce in his still more recent work, *The American Commonwealth.*

Constitution, bound in paper fetters, has stood still, the British Constitution has been advancing. It has been the work of nearly a century to incorporate into the British Constitution the theory, in its completeness, of an hereditary Crown acting only by constitutional advisers, possessing the confidence of the representatives of the people. That theory has at length become so established that Her Majesty's Government is in fact, although not in name, a purely popular Government. In the words of one of Her Majesty's Cabinet Ministers "The Crown, at this moment, is, so far as the vetoing of bills, declarations of peace and war, treaty rights, and all analogous questions are concerned, the Ministry of the day representing the majority in the Parliament of the day."*

*The Right Hon. A. J. Balfour: speech to the Constitutional Union, reported in London *Times*, July 21, 1889.

(So frank a statement of so broad a doctrine would not have fallen from a Conservative Cabinet Minister in the beginning of the century. Even in the earlier part of the Victorian era the prerogative was considered delicate ground.) "

"The name of King," wrote the erudite Selden in 1672, "denotes *a subordinate* prince, a tenant or *representative*" (that is, of the Roman Emperor, the supreme monarch.) "England" wrote Sir William Blackstone, in the succeeding century, "is an *Empire*, because it is not subordinate to any other realm or potentate." Time is altering the application of the ancient terms. Selden's definition has become applicable in a new sense to our modern constitutional monarchy. The wearer of the Crown of England is not an Emperor, but a vicegerent—a representative of the people of England. They only are Sovereign within the realm of

England. In all acts of State the words, "the people of England acting through me, their Queen," might now be substituted for the royal name.

It is one of the fruits of the doctrine of 1774, that as the theory of liberty advances in England a like advance is made in the Colonies. The light of freedom broadens simultaneously over the whole Empire. It is now established that the people in the self-governing Colonies, within their sphere, are partners in that popular sovereignty. In each of these greater Colonies, as in the British Islands, the Crown acts only by Ministers chosen by the majority in the local Parliament. Colonists are equally part of the Imperial people.

It will be seen that the expression "the Empire" has no necessary reference, as some seem to suppose, to a single domi-

nant kingdom, having others in subjection. As a legal term, it simply describes a nation which owns no superior without itself. It is, therefore, most appropriately being transferred from the island of Great Britain, to the whole of our modern union of constitutionally governed English nations, each one of which is equally part of a self-dependent realm.

When we wish to read the law that really prevails in this respect to-day, we do not rely upon Blackstone's lectures or upon Lord Mansfield's decisions. The constitutional relations between the Crown, the Home Parliament and Colonies possessing representative institutions are matters of *State.* Binding precedents are not to be sought in *dicta* of Judges, but in the practice of Governments. In Canada, for instance, we observe the legislation of the Parliament of Canada and of the Imperial

Parliament: we consult the correspondence between the Colonial Governments and the Colonial Secretary: we note the recorded course of the Imperial Viceroys,—of Lord Sydenham and Lord Elgin, of Lord Dufferin and the Marquis of Lorne, and of their successors down to the present time,—in great test cases as they have recently arisen.

By such precedents, in the face of the law books, it has been settled that, in respect of all matters affecting her Canadian Dominions, Her Majesty must act by and with the advice of a Privy Council having the confidence of her Canadian Parliament, to the same extent as, in matters affecting her realm of Great Britain, she acts by and with the advice of her Privy Council in London.

Hence, owing to these developments that have taken place within the English Constitution, the doctrine of an equal uni-

versal English citizenship, that the Colonists of 1774 virtually contended for, has not only been accepted, in our time, but accepted with a broadened application.

The new principles favour decentralization. The mind of the Sovereign may be, as it were, in many places at one time. The necessity for personal presence in the Council of the Sovereign is no longer existent. Councillors whom the Queen has never seen direct her Royal will, in different parts of a world-embracing realm. The Empire has, in this manner, virtually been reconstituted upon a Federal basis. Canada, in reference to the legislative powers of her people, her internal administration and even (it will be seen) the management of foreign affairs, is at this moment no dependency of any other power whatever. Her true constitutional position is that of a member of a Federal Republic, composed of

many nations, united under a hereditary President, in the person of the reigning Sovereign.

Should the emergency of 1688 ever recur, bringing a necessity of recognizing once more a vacancy in the Royal succession, and of filling it by a Parliamentary choice, a test would be supplied that would be likely to discover the real interrelations of the modern Empire. For the purpose of filling the vacant throne, we might see a constituent assembly convoked, not of inhabitants of the British Isles alone, but from the freemen of the Empire at large. It would be seen that a new Imperial Head could not be regularly chosen except by an Assembly that would represent the English of two hemispheres, as the more local Parliament of 1688 represented the English of that century.

This new status of the greater Colonies, recognized in practice, is obscured by the persistence of names and usages belonging to an elder stage. The Royal title is an instance. Its ancient form,—a reminiscence of the effete theory of insular Empire and Colonial dependence,—continues to describe the Queen of the modern Empire as "Queen of Great Britain and Ireland and of the Colonies and Dependencies thereof," (and Empress of India). The description is at least ambiguous. Customarily, it has been interpreted as if the inhabitants of Canada and Australasia had no direct relation to their Queen: as if they were inhabitants of subject provinces attached to the Queen's proper realm of England: as if, in short, they rendered allegiance to a Sovereign not their own. But in fact the allegiance of a Canadian or Australian is not derivative, but personal.

Neither is the subject, but a citizen, of the Empire. To a Canadian, his Sovereign is not the Queen of Great Britain, but the Queen of Canada. Similarly, to Australians and New Zealanders she is Queen of Australasia.

At one moment the recognition of this changed status actually seemed to be on the point of being accomplished. At the time of the Colonial Conference of 1887, Her Majesty's Colonial Secretary, Sir Henry Holland, in welcoming the assembled Colonial delegates, announced that a proposal was under consideration by Her Majesty's Government to amend the Royal title by including some more fitting reference to the Colonial Empire. It is open to us to suppose that the intention was to add the names of the chief Colonies in the list of the Royal dominions, set forth in the title, along with the United Kingdoms of Great Britain and Ireland,

This would have been a proclamation to the world that all those young nations had attained their constitutional majority, and that they had been admitted into a formal partnership with the Mother Country. Curiously, however, the project, whatever it was, was silently dropped, and has never been carried into effect. An interesting subject of conjecture is suggested by the course thus taken by the Home Government. It must be assumed that some weighty influence led to the notable promise of the Colonial Minister being withdrawn: a withdrawal that was the more singular in that no reasons have ever been avowed.*

Though thus deferred, the day, probably, is not far distant, when writs shall run and treaties shall bear the style of the Sovereign of Great Britain and

*Some speculations on this subject will be found in a later page.

Ireland, Canada, Australasia, (Newfoundland* and Africa,) and Empress of India.

As a constant representative of the unity and perpetuity of a great State, Hereditary Royalty is the simplest and most convenient institution that has yet been devised. The prospects of our Imperial Confederation would be much darker, were we obliged to contemplate the necessity of periodical elections to the headship of the Empire, agitating its numerous parties, and scattering jealousies through its many nations. By joint contemporaneous labours of statesmen in different parts of the Empire, in the Home Parliament and in Colonial Parliaments, the Throne has been developed into an engine of popular sovereignty. It has, at the same time, grown to be the point

* I entertain little doubt that a parallel movement of events will in the meantime have brought Newfoundland, whose status is now rather anomalous, into connection with the Dominion.

of union for a growing circle of English nations, already widely spread over the world.

For the ancient Throne has more than a symbolic value. The constitutional monarchy is moreover a very genuine bond. The modern Sovereign is not only a symbol of the unity of the Empire, but is actually the constitutional head of each and every separate national Government. Loyalty to our Canadian Queen is synonymous with loyalty to Canada itself. No Colony can sever that family tie which connects it with the remainder of the Empire, without at the same time working an internal revolution. When it resolves to repudiate its own natural Sovereign without a cause, it must prepare to invent some new, artificial centre of government:—no light task. Let not the true nature of that sentiment with which it would be playing be forgotten. Like

other moral principles, loyalty or allegiance is a habit of mind. Once dispelled, it is not to be easily reconstituted around any new object. The virtue of fidelity, when overthrown, rather gives place to its opposite—the vice of inconstancy. The Colony making that change would be in peril of making a breach not only with the spirit of honor, but with the *habit* of loyalty, without which no form of government can hope to last. By the act of wantonly abandoning the hereditary institutions to which they were born, its people would be courting the restless anarchy of France.

I do not think I am overcome by any glamour proceeding from monarchial institutions. Princes are human. Their humanity may not always be of the noblest order. Their high office, it cannot be denied, may fall occasionally to unworthy

hands. But royal follies or princely vices can seldom involve a nation in shame and dishonour so deep, or become the cause of demoralization so general, as the periodical repetition of those tremendous processes of intrigue, falsehood and corruption, out of which, too frequently, party Presidents are evolved. Even in the search for the virtues and abilities, the lottery of natural descent is not likely to fall more capriciously than the method of party selection.

The evil influence of a royal personality worse than the average standard of his subjects, has necessarily a limited range. Colonies, to use a quaint phrase of Walpole, have hardly more than the *smell of royalty*. It is not the example, but rather the criticism of royal vices that reaches them.

There are certain petty vices of which royalty is more often the opportunity

than the cause. Sycophancy and tuft-hunting, the love of pomp and ostentation, can be generated within Republics as well as under Monarchies. Where those tendencies exist, the absence of royalty does not prevent the finding of meaner objects to receive the despicable worship.

There is a certain school, to which change invariably presents itself as the equivalent of reform. It has become its custom to cast unlimited ridicule at the Throne, in the place to which it has been reduced in the modern constitutional scheme. They smile at a Sovereign and the princes of his family, busied with a round of ornamental functions: bearing the daily burden of receiving and dispensing flatteries; presiding at banquets, assisting at the opening of buildings and institutions, bustling from one throng of Aldermen to another.

Though there is, I think, a tendency to overrate the decadence of the Throne as the depositary of political responsibility, let it be granted that a modern Sovereign is chiefly occupied with the gracious duties of social headship. Let it be granted that lighter public functions, the presidency of charities and sciences, the official recognition of arts and improvements, have taken the place of military command and political power. Does not the Radical, who despises those peaceful labours of a modern king, betray a reactionary mind? Is it not *he* that drags behind the movement of humanity? The ruder work of kingship belongs to ruder ages. As the nation progresses in civilization, by turns military command, next criminal administration, even at last political legislation, successively lose their first importance. The changing of constitutions and laws cannot *always* be the

engrossing or most vital occupation of civilized men. As the nation becomes socially more advanced and settled, its organization must draw nearer to the peaceful order of a great family. Hence, *ex neccessitate*, the headship of a prosperous, cultured, and enlightened nation becomes less a political office; less a guardianship of crime than a presidency over the virtues and graces of civilized life.

Assuming a fitting personal equipment in the occupant of the throne, royalty may still fulfil a beautiful and useful, if not an essential, office in the modern community. It demands special gifts; the very gifts which hereditary practice has shown itself most apt to develop. It calls for honour, tact,—itself a talent—natural courtesy, an interest in public duties, and no mean intellectual cultivation. Although heredity will sometimes disappoint our expectations,

we know that there is more than a possibility of *breeding* gentlemen. But by what tests or processes shall the political caucus or its creatures select the possessors of those high qualities?

But, I have said, there is a tendency to overrate the decadence of the Throne as a seat of power. Such broad expressions as I have quoted (from the utterances of an English Cabinet Minister*) must not be read without some qualification. The position of the tenant of the Throne, for the time being, is indeed that of "a trustee, to give effect to the will of the people." Also, properly and constitutionally, this will, of which the Monarch is only to be the agent, is that will which is expressed by the Ministry of the day, supported by a majority in the Parliament of the day. But let there arise some grave and critical emergency, when the Sovereign

*Page

shall have reason to believe that neither Ministry nor Parliament are truly representative; when their proposed use of their powers would be a gigantic fraud upon the will of the people; or a snatched verdict, against which public opinion, by its extra Parliamentary organs, was strongly declaring itself: can we doubt, in such a case, that the duty and powers of the trustee of the ultimate executive office would be those of a responsible *person*—not those of a mere registering machine?

The fact that the constitution that governs the British Empire is already Federal, is rendered less obvious, though not less true, by certain variations from accustomed Federal types.

For instance, there seems to be no other known Federation which does not reserve a considerable number of Legislative powers as the "province of a

Central Federal representative body. Our Imperial Federation virtually reserves none. There are a few inconsistent exceptions—copyright, for instance, and the regulation of merchant marine. But these cannot much longer remain in their present position. Even as to them, though they are usually strictly reserved to a Federal or Central Legislature, the Home Parliament is experiencing a strong pressure from the autonomy-loving Provinces, whose independence already extends even to the imposition of tariffs.

Thus the legislative independence of the separate States or Nations comprising the Empire is substantially, if not formally, unusually complete. Yearly the rule becomes more solidly settled, that, in all matters of local legislation, the Crown acts solely by the advice of its local Ministry, with the consent of the local Parliament.

Again:—the charge of foreign relations, the concluding of treaties, the conduct of diplomacy and war,—undoubtedly parts of the Royal prerogative in the last century,—became, upon the separation of the United States, the duties of a central administration :—a continued prerogative, chiefly lodged in the President and his Cabinet. But to assume that a Federal head or council, in all cases, under all conditions of times and circumstances, is the sole natural heir of such prerogatives, is to be deluded by an analogy. Frequently as those essentially Federal powers may require to be exercised in concert, yet concert in this century of telegraphs seldom demands the offices of distant delegates: still less need it await the institution of a fixed Imperial council. The practical sense of the Home and Colonial Cabinets has already wrought out a novel and

peculiar practice, a kind of give and take system, which, puzzling as it may be to foreign governments, inconsistent even as it seems to be with doctrines to be found in our books, is in accordance with the real spirit of our institutions. While the prerogatives of peace and war, the negotiation of international treaties, and the appointment of ambassadors, are in form controlled exclusively by a Council of advisers, chosen from Her Majesty's subjects in Great Britain and Ireland, alone, yet in reality those powers are not thus centralized, but are very delicately balanced and distributed. In making treaties, or disposing of diplomatic questions affecting Canada or Australia, Canadian and Australian Privy Councils now invariably take part in the consultation. By memorials and despatches, sometimes by delegations and conferences, the will of the

Queen's subjects in the portion of the realm immediately concerned, is ascertained, through the constitutional channel of the local advisers representing them.

Time, in fact, is silently clothing the ancient body of Councillors nearest the Throne with something of the representative character that has fallen upon the Throne itself. More and more, they will be seen enacting in these wide reaching matters, not so much their individual will or opinion, as the course advised by the Ministers of some great Colony, more directly interested in the particular issue.

The best assurance that the once unwieldy Empire is not decaying or disintegrating, but developing a more perfected organism, is to be found in these signs that its living vigour, its animating force and authority, are not withering and

withdrawing to the centre, but are expanding and becoming instinct at the extremities.

No doubt this development, not always appreciated by our own theorists, sometimes embarrasses foreign nations. But, as occasions arise, they are steadily being forced to recognize it.

When in 1870, in connection with the fishery clauses of the Treaty of Washington, Sir Edward Thornton advised Secretary Fish that "as the matters which were to be considered by the commissioners deeply concern the people of Canada, it was necessary to consult the Government of the Dominion upon a point of so much importance as the appointment of a third commissioner," Mr. Fish protested against this course. "The reference," he replied, "in your note to the people and the Dominion of Canada seems to imply a

practical transfer to that Province of the right of nomination which the treaty gives to Her Majesty." The British Government, he protested, had no right to delegate its powers under the treaty to "an interested party." A consultation by Her Majesty with Her Canadian Privy Council, Mr. Fish compared, rather superciliously, to a consultation by the President of "some local interest—that of the fishermen of Gloucester, for instance."

More recently, on a like occasion, Mr. Blaine (upon whom, in this respect, the mantle of the Bourbons seems to have fallen), renewed his predecessor's protest; and, with almost the same expressions of surprise, once more the United States Secretary of State endeavoured to recall Her Majesty's Ministers to the ancient principles of their Imperial Constitution.*

* Despatches on the Behring Sea dispute, 1890.—Reiterating Mr. Fish's protest, Mr. Blaine almost

Earnestly, but in vain, Mr. Fish in 1870, and Mr. Blaine in 1890, sought to assert against the modern Colonies a theory of Colonial government, to which the Colonial ancestors of those statesmen gave the death-blow.

In the same spirit various Acts assumed to be passed by the Canadian Parliament relating to like subject matters have presented themselves to the minds of American critics, as being wholly *ultra virès*. "As well might Massachusetts claim the right to open independent negotiations with the Court of St. James, as Canada with the United States. Both lack the essential element—sovereignty," argues a writer of considerable intelligence and scholarship, and free from any special

plagiarized his predecessor's illustration; only substituting the State of California for the fishermen of Gloucester.

bias of locality.* "Lacking the power to contract a treaty, the claim of right to construe one contracted between the Sovereign and a foreign nation is preposterous."

These are long past traditions. The narrow constitutional view, against which the old Colonies revolted, has been steadily vanishing. In our time the rule that the Imperial sovereignty, in these matters, is virtually shared with the greater Colonies, and its exercise participated in by their Legislatures, may be regarded as established. Although (like the doctrine of Responsible Government) the rule remains unwritten, we may be sure it will never fail to be observed, whenever some interest represented by any of those bodies comes in question. The nominally exclusive exercise of

* Mr. Elliott (Minneapolis University); *The United States and the Northern Fisheries*, page 129.

sovereignty by the Home Government takes its place among the numerous legal fictions which are so common in our constitutional experience.

If the descendants of the Colonists of 1776 seem to read the modern law of England with the veil of their own written Constitution always before their eyes: if they seem to have altogether forgotten that progressiveness is the essential spirit of the ancient, but never antiquated, British Constitution: a number of Imperial Federationists exhibit a hardly more excusable blindness. They continue to urge the necessity of a formal Federation on the single model they seem to have studied. They point to Canada, forming a Confederation with a strong central Government from the Atlantic to the Pacific; and to the sixty great States to the South maintaining, and knitting even

more closely, a compact Federal Union; and they ask their countrymen—why despair of consolidating an Imperial State on similar lines? The answer to their question is, that the resemblance is a false one. There is no real similarity in the situations compared.

The United States, enormous and widely extended though they are, are contiguous. Their united domains might be described as lying "within a ring fence." The commercial interests of a State at the South might appear to differ much from those of an extreme Northern State. But these extreme members are united by intervening States: the variations run gradually through the mass; never do they visibly confront each other across any State border line.

The internal diversity is, therefore, not inconsistent with uniformity of foreign

policy. Geographically compact, the interests and relations of the States with one another, as compared with their relations to other nations, are practically united. It is quite otherwise with the nations of our Empire.

For foreign treaties, for tariff making and many other purposes, the centralized Federation which is suitable to the United States would not be convenient for the States or nations of the British Empire. The latter compose a chain scattered through two hemispheres; wide oceans sunder them from each other; and foreign territories intervene. The local relations of Canada are at the present time with the Continent of America, though they are reaching rapidly towards Japan. The relations of Australia are likely to be most intimate, or acute, with foreign neighbors in the South Pacific. Some of those young communities are in the

Protectionist stage of civilization: others are Free Traders. To reconcile the diversity of their interests within the scope of uniform enactments: to administer their internal and foreign relations to general satisfaction, from one distant centre, would be a task exceeding the wit of man.

Enthusiasm sometimes has the opportunity of enacting constitutions; but it seldom remains to work them. Justly proud as we may be of the character of our race and of the grand accomplishments of its history, we must not expect perfect liberality of feeling and breadth of view to be universal qualities of public men. Among so many small and ambitious States we must not be surprised if narrow, jealous and short-sighted views sometimes prevail with local majorities. Optimism is far from the mood of statesmanship. No institutions would contain

within themselves the promise of long endurance which left out of account the average of human nature.

Under any mode of administering such immense dominions, Foreign Relations may long be a branch of government of much complexity. In these affairs, while nations form a union, a part may not act, except in concert with the whole: because the action of a part may affect the whole.

In each of a long series of questions and relations, the Mother Country, with her wide-spread commerce, must naturally be interested, and will claim a voice more or less potent. Not only from her preponderance in population and wealth, but from her geographical relations, Great Britain is a common centre of international connections, such as is not likely to be the case with any other of the Imperial

nations for a long time to come. A constitutional system, to be suitable for dealing with these complicated internal as well as foreign relations, requires to be possessed of a correspondingly elastic adaptability, But for this, as we have seen, our fortunate Constitution is expressly and admirably adapted. It will be time enough for the Colonies to declare that they must make their treaties severally, as independent Powers, when they no longer find it possible to make them jointly.

When we reflect with how large, important and varied a proportion of the globe each Colony is already connected, without the necessity of diplomatic relations, by virtue of the common connection with the Empire, we can understand why Australia and this Dominion have hitherto found so little cause of complaint in their exclusion from direct correspondence and

treaty negotiations with foreign nations. The completion of the Canadian Pacific Railway has given Canada a new front upon the Pacific; and the full extent and importance of the connection with a vast household, and the consequent internal freedom it secures, begins to impress itself. Canada is free to negotiate with Australia. No constitutional principles prevent Canada and Australia from favoring an interchange of their respective products and manufactures. In this possibility Colonial enterprise may yet find consolation for the difficulties which duties as a part of the Empire throw in the way of concluding special treaties in its own interest with the United States, or with the South American States. Imperial Federationists dream of a complete Imperial Zollverein—an extremely distant, and perhaps an undesirable, consummation. There is an *inertia* in the vast trade

interests of Great Britain too great to be overcome. But much may be accomplished short of an universal Zollverein. Reciprocity with Australia might secure for many products of each Colony an almost undivided trade, that would be far more than an equivalent for a possible fraction of the trade of South America, with the United States as a strenuous competitor. In a convention for that purpose between the Governments of those Colonies, Great Britain might claim a voice, but she would have no constitutional right to impose a veto upon the arrangement. While any such Conference is being carried on, in relation to a commercial treaty between two or more of the Colonies, among themselves, Great Britain may be said to hold what is called a "watching brief." The Colonies, again, will expect to be made conversant, in like manner,

with all commercial negotiations between Great Britain and any European or Asiatic country: lest by some ill considered clause the unrepresented colony might unintentionally be made to suffer disadvantage.

For the more certain maintenance of this delicate web of relationships, it may ultimately be found convenient to give the position of a modern Colonial Governor a more definite and consistent part in the Imperial scheme than it now holds. Personally the Viceroy cannot wield any greater authority over the legislation and administration of the great Colonies than Her Majesty exerts at home. He is a deputy to formally attach her sign manual to the enactments of her local Parliament, and to the "recommendations" of her Colonial Council; also to dispense in her name the graces of official hospitality. Thus, by the growth of Con-

stitutional Government, the office, once so important and still so conspicuous, of Governor-General, has visibly declined in authority and consideration. It threatens to become atrophied for want of a serious function. At the present time, to an able man, its idleness must be made more irksome by its surroundings of sham importance, and the empty mockery of Royal dignity.

If the appointment is not to pass altogether from the hands of statesmen of the first order, to become a perquisite of second or third rate party servants, we must desire to see the post revested with something of real influence and utility.

Great Britain cannot be expected to spare five years of the lives of her Dufferins or her Lansdownes, to be bestowed on a merely ceremonial position.

Distinguished talents are too much needed by the Great Empire, the mistress of India and Egypt, to be wasted as simple correspondents of the Colonial Office, mere dispensers of flattering speeches and nominal honours.

The necessity for giving to the Governor some constant function, of more tangible importance, justifying the appointment of statesmen of a high order, is the greater, because ability and political experience *may*, on occasion, be called for in the tenant of that office, even as at present constituted. A certain latent power is vested in him, by delegation, corresponding to that which Royalty itself holds in England. Its exercise may be rarely called for, but those emergencies will demand judgment and firmness as rare. Unconstitutional as it would be, on the part of a Governor-General, to interfere with the ordinary course of legislation

or administration; or to refuse to act upon any advice that might be given him by his Ministers, supported by the House of Commons, this general rule is subject to one necessary exception.

As courts of law are bound, as far as they can, to give legal effect to the rights of individuals, however ill-judged their contracts or obligations may appear to the superior wisdom of the presiding judge: and yet, in the case of rights *fraudulently* won or exercised, the right is reserved to discern such fraud, and adjudge accordingly; so it is always conceivable that advice may be tendered to a Governor-General which is clearly corrupt or traitorous. Or the advice may seem so certain to involve fatal issues, that it may justify a Governor in inferring that the temporary majority in the House, supporting the Ministry tendering it, is not really representative of the will of the

nation. A Governor, by refusing to accept such advice, will compel a Ministerial resignation, a Parliamentary dissolution, and a general election. By such means he, in fact, refers the question back to the people. But he will always exercise this extreme power at his peril. Should the popular vote rebuke his judgment, by returning his rejected Ministry to office, nothing would then be left for the Governor-General except resignation, and the probable ruin of his political career. Thus he would act, as it were, with a halter around his neck. Nevertheless the existence of this latent power, in a hand capable of wielding it, should the necessity arise, might have its silent influence upon the conduct of Ministries. Like the penalties of the criminal law, it may be supposed to prevent a thousand offences for one against which it is actually enforced.

(Were the memoirs of *one* Governor-General to be written, whose term of office endured through a stormy period—of untold influence upon the future of the Dominion, a period of open struggle and secret intrigue, which happily resulted in the stamping of an English, Protestant, and progressive character upon the pioneer Province of our Great Northwest—a page of that secret history may chance to reveal how much reason Canada has to thank that able and loyal Viceroy, now deceased, for his fearless intervention at a critical moment.)

If it be conceded, for these reasons, that permanent dignity and importance should be conferred on the Governor-General's office, a most useful and natural means of doing this is not far to seek.

Out of the confused and cloudy history of British diplomacy on this continent,

the Reciprocity Treaty of 1854 shines forth with clear and exceptional brilliancy. The explanation of the unprecedented success of that honorable, wise and universally satisfactory convention may be traced, I believe, mainly to one fact. In that single instance, the whole interest of the British Empire was plenarily committed to the one able statesman who was then Governor-General of British North America. The representative of Her Majesty's Council in London, the titular head of Her Majesty's Canadian Council, was at the same time the diplomatic plenipotentiary of the Sovereign. Lord Elgin went to Washington fully equipped for the representation of the whole interest of the Imperial realm. No spectacle of disunited councils was then presented to the foreigner, to our dismay, and to his advantage. For once the will of the united Empire found a consistent, con-

stitutional expression, speaking by the single voice of a representative, fully authorized and amply qualified for the task.

The greatest abilities would not seem to be thrown away, if the Governor's office were (what it might naturally be made) — a substantial personal link between Her Majesty's councillors in England and Her Council for the Colony: that is, purely in relation to their joint dealings with Foreign Affairs. Already a modern Governor-General sits at the Council board, much more as a diplomatic representative, on behalf of the Government which appoints him, than as a *Governor* in any sense of the word. It is perhaps this diplomatic footing which is destined, in the near future, to be much more frankly developed. Present as little as now, at the Colonial Privy Council, while it was occupied with

internal administration, the Governor might preside at its deliberations, when Foreign Relations were under discussion to represent in person the views and interests with which he was charged by the British Cabinet, in these matters of joint interest.

If the Governor-General once came to be clothed with authorities and duties approaching those of a Foreign Minister in the Home Cabinet, for his quarter of the world, it would lead naturally to certain modifications in the forms of conducting diplomatic relations. It would be natural, for instance, that the credentials of British Ministers at Washington should come to be virtually countersigned by the Canadian Secretary of State.

In Europe and Asia Colonial interests as a rule are but a fraction of the total mass of British interests in connection

with those countries. A Canadian or Australian Ambassador at the Court of Spain or Italy would be an expensive and an almost useless ornament. But in the case of Imperial relations with the United States, the conditions are reversed.

Canada is the unit of the Empire in actual contact with the United States. She has probably more constant interest in possessing direct communication and an influence at the seat of that Government, than Great Britain herself has. It would only be a consistent development of the modern constitutional practice, that Ottawa should eventually become the channel, through which Ambassadorial reports would be received from Washington; and that the Governor-General, as representing the British Cabinet, and as the

head of the Colonial Privy Council, should be the mouthpiece through which the united instructions of both Privy Councils would be forwarded to the British representative at that Capital. When this shall happen, and when the selection of the Imperial Minister to Washington begins to be openly made by the Home Cabinet in concurrence with the Government of Canada, Canada will cease to appear to the neighbouring nation as a silent dependency of Great Britain. She will be unequivocally recognized in her new position, as an integral part of the Empire, and a partner in its management. The mere assertion, by such a step, of a permanent unity of interest and policy between the two countries would go a long way to gain a respect at Washington for the rights and interests of the British Empire which British and Colonial diplomacy,

hitherto disunited and undecided, has seldom been able to command.*†

Enthusiastic Imperial Federationists advocate an Imperial protective policy; and those who go that length urge that possibility as a reason for creating a *central* legislative and administrative authority. They point us to a time (undoubtedly not far off,) when Canada alone may produce a surplus of food products, exceeding the necessities of Great Britain. When a duty on foreign grain and cattle could no longer threaten new burdens upon English consumers, it

*The appointment would still by preference be filled by an English nobleman, who apart from the advantage of diplomatic training, may long be more influential at the Republican Capital than an untitled Canadian.

†It will be seen that I am unable to concur with those who from time to time raise a voice in favour of native, or elective, Governors-General. Such a practice would destroy the last semblance of symmetry and consistency in the Imperial system.

might enter practically within the purview of legislation. When that moment arrives, the British Empire will at last be in a position to negotiate effectively for that free exchange with the United States which is now contemptuously refused: because the Empire would then be able to threaten effective reprisals.

But, on that very account, when the Empire is ready for the proposed Zollverein, the world, almost directly, will become ready for universal free trade. The menace of an Imperial Zollverein will accomplish its purpose so well, that it will never be reduced to practice. In no human probability will a vast system of internal tariff regulation ever become a standing feature of the government of the Empire. The subject when once ripe will come up as material for a greater Convention. The vast combina-

tion of commercial advantages which the United Empire will possess may be used to treat for a cessation of the tariff war between the nations: a war which is fast becoming not less universal, and scarcely less burdensome, to the whole world, than is the terrible competition in standing armies, to the nations of the European Continent. In that convention will be included all the English nations, and probably the chief foreign States; it will result in a mutual commercial disarmament; and all will join in throwing over the Imperial Zollverein, as a useless ladder, by which greater objects will have been achieved.

To Canada, perhaps, small and feeble as she seems to be, is apparently reserved a great prospect of influence upon the well-being of the Empire and of the world.

The mouse may be destined to gnaw the toils of the Lion.*

If these conclusions be correct an unnecessary stress has been laid upon the supposed necessity for establishing an Imperial Parliament, or Administration, for the purposes of a Central Council of Trade. While the dream of erecting a protective wall around the commerce of the Empire may fade away, a nobler

* To one who holds this belief it would be pitiful to see the position of commercial independence now enjoyed by Canada, upon the maintenance of which this prospective power depends, prematurely thrown away. On this account I am unable to concur with the arguments of those (many of them inspired by the highest motives) who are advocating a sacrifice of this position to the convenience of a brief present, by irrevocably welding the Canadian fiscal system into that of the United States. It is to be hoped that Canadians will not be tempted to a shortsighted course by any prospects of immediate gain, however glowing: that the Canadian agriculturist, in the hope of escaping from the injustice of protection, as he experiences it, will not be deluded into riveting upon himself, perhaps for a long period, the triple chain of the American protective system.

and more inspiring vision rises in its place. That substituted prospect, fatal to one favorite argument of Imperial Federationists of an older school, should enlist, in favour of the real Imperial Union, the voices of philanthropic thinkers and enlightened patriots, not only within its borders, but throughout the civilized world.

Each new settler in the Canadian North-West is helping to hasten a better day—the day of wider commercial freedom, of international reason and amity, of broad humanity and universal justice. Every man of English speech who contributes his labour to developing the vast territory under the dominion of our branch of the united race, may strengthen himself against his hardships by that inspiring conviction. These are the splendid and conscientious motives for an Imperial

patriotism. The veil that has divided patriotism from philanthropy—enthusiasm for Country from loyalty to Humanity—which under the influences of civilization has been ever thinning—seems, in this latest and greatest of Empires, to be about to be reduced to its most transparent texture.

The true aims and objects, as I believe, of the future Empire have been obscured by some of the most earnest advocates of the cause. They have dwelt too long upon an Imperial Constitution framed not for requirements that are constant, but for rare, unhappy, unnatural eventualities: for the enactment of tariffs that must be transitory, and for the waging of wars that it may be hoped are altogether remote. These are the purposes for which they insist on a central Executive, if not a central Parliament. To sacrifice the

form of a permanent constitution to an exceptional contingency, like War, would savour of political improvidence, rather than of statesmanlike foresight. It is as if the pleasant country mansions of England were once more to be converted into baronial fortresses, the modern windows to be blocked for loop-holes, the ancient moats to be re-excavated, to meet the distant, if always possible, prospect of invasion and disorder. The feudal period is past, and Governments have undergone a corresponding change of purposes and of methods. A central Military and Trade Council, as a condition of Imperial unity, belongs to the period of walled cities. It has little part in the future we are entitled to contemplate. When the chief object of States was the prosecution of war, now offensive, now defensive, it was necessary that business should be centralized in an absolute

council. Warlike deliberation must be secret, that action, when required, may be sudden. But the profession of arms has largely lost its vogue. The wholesale butchery of modern scientific warfare has dispelled much of the glamour of military glory. Its ruinous wastefulness of lives and resources is appalling to the most warlike Emperors and gives pause to the most ambitious of Ministers.

Territorial covetousness, if it can only be gratified at the cost of a great war, is beginning to be counted as a bad speculation. Some strong, moral, popular impulse must be added, to force the masses of a nation into the tremendous movements of modern war.

Since the preservation of peace has become the object of modern States, deliberation and openness—the qualities of representative assemblies—no longer present themselves as fatal to policy.

Who can calculate what influences shall finally sway a negotiation fluctuating between peace and war? Imagination itself has been known to become a potent factor. The present generation will not soon forget the impression that was produced throughout Europe when Disraeli disembarked a single ship-load of Indian troops at Malta. From that moment dated a sudden change in Russia's diplomacy: her submission to a European Conference: her acquiescence in a revision of the Treaty of San Stefano: her concurrence in its conversion into a palimpset for the Treaty of Berlin (a Treaty which was supposed to mark a mere truce, but which bids fair to have more than usually abiding results).

Few, too, can have yet forgotten a later incident, when Russian diplomacy, in the midst of its unscrupulous career, at the perilous time of the Afghan boundary

question, was suddenly thrown back upon its haunches, as it were, by Mr. Gladstone's one unexpectedly spirited declamation in the House of Commons. The method of the warning caused it to be heeded, without requiring it to be resented. The indignant utterances that reached the ears of the Czar, accompanied by the united plaudits of the House of Commons, came not as the calculated language of a negotiator, but as proclaiming the earnest, united voice of an outraged people. Had Mr. Gladstone's declaration been first deliberately resolved upon in the secrecy of a Cabinet, and only formally communicated through a regular diplomatic channel, it would have reached St. Petersburg not as a warning, but as a blow. It would have left the Czar only the dangerous choice between humiliation and war. Thus, for the preservation of peace, publicity of debate may even have its advantages.

Anglo-Saxons have never allowed their course to be much governed by a timorous obedience to speculative logic. England's statesmen have sometimes "stood upon impossibilities," as her generals have held their ground, after they were beaten by all the rules of war.

Government by concurrent action of a series of Privy Councils, though undoubtedly cumbrous, as compared with government by the Executive of a single compact State, and though undeniably attended with difficulties, may never prove to be impossible.

To doubt the necessity for a standing Central Council of War is not to deny that more special consultations between the different Governments may become expedient: for instance, in relation to putting the Empire into a state of defence, or to decide its foreign policy

in some particular emergency. It is not to dispute that circumstances, on occasion, may require the cable and the Queen's Messenger to be supplemented by the summoning of representatives to a great Council. But even in that event, in presence of the gravest and most urgent circumstances, time and publicity might rather advance than frustrate the real object. The assemblage of such a Council, representing so many great and civilized nations in both hemispheres, whose united deliberations might decide the peace of the world, would be an event of a solemnity not often precedented in the history of mankind. When it had become known that such a portentous summons had been issued by the Sovereign of the Empire, there might come, for a moment, a great pause in diplomatic strife. It would be recognised as the final opportunity for international reflection. In

that silence the quiet voice of wisdom might make itself heard, and the counsels of peace at length find acceptance.

But let us contemplate the hidden strength, for military purposes, that underlies this Union of ours under its existing conditions. The Empire, within another half-century, will comprise not less than three mighty States, each perhaps more than equal in population and resources to the United States on the outbreak of the last civil war. India, a reservoir of labour and armies, will consolidate its loyalty in the midst of a circle of nations, the least of them promising to become a considerable Power. What Armageddon of hostility would threaten the integrity of that vast alliance? What foreign State, in the meantime, will think it wise wantonly to lay the seeds of enduring hostility with that expanding

Union? The Empire still possesses the reputation of latent military spirit. With the emergency of a common vital danger, will not its people justify it? May we not expect to see the ancient English spirit rising, again provoking every part of the Empire to perform its share, not each for itself alone, but each for the whole?* If Canadians or Australians wish to count the cost of a wanton severance, let them contrast their present position, in respect of military expenditure, with that of many of the smaller or poorer States of Europe: let them compare their military budgets with those

*This is not an expectation unsupported by precedent. On the American continent the Seven Years' War was fought on the English side in no small degree by Provincial levies supported at Provincial expense. It was largely Provincial expeditions that twice captured Louisburg. In the preceding war even the equipments of the Massachusetts volunteers were provided, not by Royal subsidy, but by Provincial loan. The Canadian 100th and the more recent Australian contingent cannot be forgotten.

of Italy, or Holland, or Belgium. Without any express Federal convention or common military treasury, our British Union offers very tangible advantages to each and all of its constituent nations. A benefit accrues to the least as to the greatest. The relative balance of advantage is at present on the side of the Colonies, but in fulness of time, with the shifting of population and wealth, the balance will probably revert to the scale of Great Britain.

For such a realm, to borrow the language of commerce, becomes its own insurer. The world-wide distribution of its risks is part of its strength. The very number and remoteness of its parts protects the Empire as a whole from the chances of a fatal *surprise.* In a contest, the ultimate fate of any Province will not depend upon the chances of a local cam-

paign. Unless, indeed, a war should end in utter and general disaster, the condition of peace would be an inexorable *uti possidetis*, as regards every territory of the Empire. Hence, the Imperial Union has not organized any Central Bureau of Defence: its flanks are not bristling with fortifications, nor its people groaning under the burden of universal conscription. The States of such an Empire need not sleep upon their arms. No member of the union need exhaust its resources in time of peace upon costly fortifications and experimental armaments. Each can defer those precautionary expenditures — with which the same nations, if separate and independent, could not prudently dispense.

Such is the invaluable birthright that has fallen to Englishmen, Canadians and Australasians, as members of this great

union of nations. Let their portion in it be improvidently surrendered, and where shall any of them look for alliances as great, as natural, as secure?

It may be asked how, without either central legislature or central executive, without a common purse, a common trade policy, a common authority for military purposes, can the Empire, as an organization, be said to exist? What practical bond of unity distinguishes it as a State? The tie of common allegiance to a hereditary head, unsupported by some material guarantees or other positive advantages, would seem to be a flimsy and imaginary bond.

It seems to me that security of internal peace between the Federated States themselves is itself a sufficient object and *indicium* of union. Defence against foreign attack and injustice are the acci-

dental occupations of modern Governments. Internal peace and justice are their constant and essential business. A common law, maintained by a single fountain of justice, is the essential mark of the unity of a modern State. So the existence of a common authority for the enforcement of the peace within and between several States is the essential feature of federal union. In other words, the single central authority indispensable to the theory of a united realm, is a Supreme Court of Appeal. This Court the British Empire possesses, in germ, in that ancient, but still living, body known as the Judicial Committee of Her Majesty's Privy Council. The authority of the Court is supported by an Executive theoretically omnipresent. It can command the support of a series of local Governments, each constitutionally using the name of the Queen, but each com-

posed of local advisers, responsible to their respective Parliaments and peoples.

That venerable institution, in form a prerogative, in fact a federal power, is destined, I believe, soon to complete its transition. Certain inconsistencies in the constitution of the Court once removed, the federal nature of the body will be more readily perceived; and, when a few remaining inconveniences in its practice have been adjusted, the invaluable nature of the privilege, to the Colonies, of access to such an institution, will make itself very clearly felt.

For constituting that Court we shall possess, as common stock, the professional ability and combined legal experience not of a single people, but of all these nations, inhabited already by upwards of forty-five millions of men of European race, bred under one system of law.

Besides the advantage of securing uniformity to English law, the existence of the truly august body secures to every Colony the advantage of carrying many controversies, of a more or less public character, before a tribunal indifferent between the local parties, when the impartiality of a local court would often be open to question.

It was thought to be within the power of the Legislature of the Dominion of Canada, when creating the Supreme Court of Canada, to omit that line which preserves the ultimate jurisdiction of the Privy Council in special cases. Wisely, I believe, in the interests of Canadian litigants and law, the Parliament of Canada has hitherto hesitated to exercise its power. It may be hoped that it will always refrain from severing the most essential bond of the Union, and, with

the same stroke, destroying one of its most marked advantages to our own particular portion of the realm.

Young Colonial writers are inclined to be stronger in local than in Imperial patriotism; and they have shown some jealousy of the supremacy of the distant Judicial Committee of Her Majesty's Privy Council over the Courts of Appeal in their Colony. One ground—that resort to a Court sitting only in London is expensive, and in some cases is an oppressive necessity—is not without its weight. But that inconvenience is one, I think, that admits of an appropriate reform. Again, the existence of an appellate Court laying down the law for the Colonies, in the constitution and appointments to which the Colonial Governments have hitherto had no share, is pointed to as unconstitutional and a badge of dependence.

The remedy of this inconsistency, I believe, is also very close at hand.

With objectors who raise the sentimental ground that dependence on this distant Court is a slight to the native bench I have little sympathy. They do not seem to remember that the dependence upon the Privy Council is of our own choosing, and that it has been continued for sound reasons. Until Canada can exhibit upon her Supreme Bench a quorum of five lawyers capable of arriving at even an average of unanimity, the country would be ill-advised to cut off appellants from the greater resources of the Mother Country. A local Court of Appeal, the members of which are habitually unable to convince each other, can hardly command the respect and confidence necessary to a final court of law.*

*The Supreme Court of Canada, as a rule, reverses or confirms the opinion of the court below by a bare

The comparison with the elder Court is less extraordinary and humiliating when we examine the causes of the difference. Those members of the Supreme Court of Canada, who may be considered to represent the English-speaking Provinces, and are really familiar with the spirit of English law, are furnished out of an English-speaking population numbering in the whole Dominion little more than three millions. Can we expect a body so selected to compare on equal terms with the Judicial Committee of Her Majesty's Privy Council, drawing a quorum of similar number from a list of judges representing the law and learning and the infinitely varied interests of tens of millions of the same race?

Undoubtedly Canada at this moment possesses more than one native lawyer

---

majority of opinions of the five Judges, sitting as a quorum.

qualified to shed lustre on any national Court of Appeal to be found in the world. One, at least, I might name, experienced not only at the Bar, but in statesmanship; pre-eminently marked for such a position by profound attainments and vast ability; even by that austerity of character and demeanor which, in fact, has been a bar to his success as a politician. In him, unquestionably, the Judges of Her Majesty's Privy Council would find no unworthy colleague. But has not that distinguished Canadian lawyer I Thus refer to long enjoyed, in respect of these qualities, a pre-eminence so marked and lonely that he will be recognized, by the description alone, by my readers among the legal profession, and by the laymen at least of his own Province, without even naming him. Within an extremely recent period one other native lawyer (now completing his attainments by the crowning

experience of public life) has perhaps risen into almost equal prominence. But, with its present resources, the Dominion could barely spare to the Judicial bench those two lawyers, of that first rate order of ability and character that alone is suitable for a nation's final court of law. When Canada places its Blakes and its Thompsons upon the Judicial bench it excludes them from the opportunities of statesmanship. It withdraws them from the active business of a young country, where their useful talents are, in the aggregate, more incessantly, if less conspicuously, employed than in the judicial office. Therefore the benefit to our world-wide union of nations, all of English origin, basing their legal system upon the same original common law, of the right of access to one of the greatest final authorities in questions of English jurisprudence, would itself

constitute an argument in favour of the Imperial Union.

As the Judicial Committee becomes distinctly recognized as a Federal Court of Appeal, both the constitution and practice of the time-honoured Chamber must, in due course, become modified.

The inconvenience of distant sittings may give place to a system of Imperial Circuits. There is often an almost absolute necessity that cases should be presented by local counsel, familiar with circumstances and details. It is frequently impossible to obtain due attention or preparation from leading counsel in England. The consequent expense and difficulty of presenting cases properly before a Court sitting in London is a serious drawback upon the advantages to the Colonies of the resort to the appellate jurisdiction of the Queen's Council.

With the perfected means of modern travel: in view of the great ease and rapidity with which every part of the Empire can now be reached: it is difficult to see any impracticable obstacle to prevent sittings being held by quorums of the Court in several parts of the Empire. Semi-annual hearings might readily take place, for instance, in London, at the capital of Canada, in one of the great cities of Australasia, and in Calcutta.

The Judges of the modern Privy Council, while riper in learning, are not, I doubt, more venerable in years than those early Chief Justices of England, upon whom Magna Charta imposed the really severe duty of traversing in circuit the whole extent of mediæval England, from the county of Durham to the county of Devonshire. A passage, by modern liners, to Australia, cannot match

in hardship or perils, and from London to Canada, hardly even in tediousness, the journey on horseback or by coach to York or Exeter, as the judges were wont to perform it, as late as the reigns of the Stuarts: not to speak of the time of the Normans or the Tudors.

The Judicial Committee of the Privy Council, as reformed under the provisions of "An Act for the better Administration of Justice in Her Majesty's Privy Council (3 and 4 Vic., 4 cap., 41)," includes all judges for the time being holding, or who have held, among other "high judicial offices," the office of "Lord of Appeal." By an exceptional practice, the highest judicial appointment in England, that of Lord-Chancellor, is a political and transitory office. A Chancellor is an active member of the Cabinet, and his term of office ends when the Government of which

he is a member relinquishes power. But the ex-Lord Chancellor continues to be one of the Law Lords in ordinary for life. As a modern party Government rarely outlasts one Parliamentary term, there is always a numerous list of living ex-Chancellors, that is to say, of the very *elite* of English lawyers, upon the Roll of Law Lords, and available for the quorum of the Judicial Committee. Thus, the material for constituting a circuit quorum is not wanting. If it would be impossible for the Lord Chancellor in office to absent himself from his duties in the House of Lords and at the Council Table, ex-Chancellors would be subject to no such ties. Nothing would be more convenient, it seems to me, or from every point of view, more fitting, than that the Presidency of Colonial Circuits of the Judicial Committee should be given

to the senior Lord Chancellor on the retired list.

Every member of the Colonial Bar is entitled to plead before the Privy Council. But to suit the new development of its ancient character, the Colonial Bar must be recognized as eligible for appointment to its membership.

Doubtless it would be found convenient that the quorum of the Privy Council, sitting in each quarter of the Empire, should include at least one resident local member—a judge appointed, of course, from the local Bench or Bar; and, in accordance with the modern constitutional practice, on the advice of the local Government.* The stipends and ex-

*At present the constitution of the Imperial Court requires a Judge to be nominated from the Indian Bench, but no equivalent provision exists in respect of representatives from the colonies.

penses of the Court during its local circuit would necessarily be provided from the local revenue.

The resident Canadian member would receive his patent on the advice of the Government of Canada, an Australian member on the advice of the Federal Council of Australasia. A right of concurrence or veto, to form a check upon any gross abuse by local party Cabinets, of this new and delicate species of patronage, might with advantage be reserved to the Home Government.*

Interlocutory questions of practice, arising in the course of appeals, are at present a cause of quite disproportionate

*As in the case of appointment of Governor-General, the nomination of a majority of members of this Supreme Court by a distant and impartial authority, accustomed to exact the highest qualifications, might come to be valued as one of the happiest incidents attaching to the world-wide Union of nations which constitutes our most fortunate Empire.

delay and expense to litigants. These might be quickly and economically disposed of before such resident local members of the quorum. The same eminent local judge, sitting in the intervals, might even be empowered, by consent of suitors, if not by enactment, to finally dispose of all appeals relating merely to matters of practice, or wholly dependent upon mere construction of evidence. To the full Court would thus be reserved only those weighty cases, involving novel and important issues of law, that properly require to be settled for the Empire, as a whole, by one uniform and supreme authority.

Were such a development to take place, though the Legislature might reserve to Canadian suitors the same option which they now possess—of appealing to the existing Supreme Court of Canada, on

the one hand, or to the circuit of the Imperial Supreme Court, on the other—it would be found that an overwhelming majority of *bona fide* appellants would adopt the latter recourse. The greatest boon to litigants is a speedy and also a certain end of litigation. Suitors would crowd to the portals of a Supreme Court of Appeal, marked by uniform dignity and courtesy, prompt although painstaking, and, above all, as a rule, *unanimous* in its declaration of the law of the land. The local sittings of such a Court would be a welcome and wholesome spectacle to the public, lay and professional, of this young Dominion.

With the modifications sketched, the Empire, it seems to me, will possess, in the Judicial Committee of the Privy Council, a distinctly Federal Court of final resort for the settlement of private

litigation, for the declaration of the law of the Empire, and for the prevention of disputes between the constituent nations: a parallel, in short, to that most eminent institution, the Supreme Court of the United States of America. The Empire will not want the most essential element of a true Federal Union.

Indeed, in the eminence of its membership, in the variety of its attainments, in the immense scope of its jurisdiction, and in the guarantees for its impartiality, the Imperial Supreme Court must appear to the world as the most magnificent Judicial body it has ever seen. As we imagine it making its yearly round of the Imperial capitals, moving from one Hemisphere to the other, we see it becoming a visible sign to each one of the various populations visited in turn, of the vastness, greatness, and permanence of the Empire, to which they belong: a symbol of its con-

stitutional unity, an effective warrant of its authority, and an impressive vindication of its utility. As an educating means, for fostering an Imperial loyalty, the annual circuits would have a value immeasurably surpassing that of the Viceregal institution, with its surroundings of ceremony and splendor. They would represent the majesty of the Empire better than princely tours or Royal progresses.

In matters of copyright, bankruptcy, maritime, and other commercial legislation, the Parliament of Great Britain still sometimes seems to assume a certain jurisdiction over rights and property in the Colonies. Entirely inconsistent as this is with modern principles, it must in time form the subject for a general conference, to define the terms upon which such legislative powers shall be continued. If the argument for their continued centralization prevail, it will be on condition that

Colonial Governments shall be notified, and have the opportunity of showing cause against any proposed legislation. If not opposed, the legislation will take place with their presumed assent, and hence, in principle, will not violate their independence, or the Federal Constitution of the Empire.

Thus the great structure of our modern Federal Empire seems to stand, already substantially advanced towards completion. The scaffoldings still surround it; but its main outlines and proportions have become discernible. In a construction with such a lengthened history, and with foundations that run throughout a great part of the world, we will not look for classic uniformity in its lines, nor for completeness of symmetry in the parts. Enough that the massive foundations are sound, and that, despite its occasional irregularities, one continuous spirit seems

to have formed it into no inharmonious whole. Rather than the perfection of the classic, we meet, as we would expect, the varied and convenient picturesqueness of the Gothic. Our Imperial edifice may, indeed, be likened, in respect to its constant and still unfinished growth, to some of those sublime monuments of human endeavour, the Gothic Cathedrals: structures which, while they have been in constant use since the Middle Ages, yet have allowed century after century to contribute something towards the harmonious amplification of the original design.

The acknowledgment of the advanced rights of the Colonies has been won by the continuous struggle and effort of a generation of able, clear-sighted, and courageous native statesmen. The Empire, as a whole, owes thanks and honour to the memories of a worthy company of patriots,

whom space will not permit me to more than mention—to Rolph and Mackenzie, to Baldwin and Lafontaine, of Old Canada, to whom belongs a primacy, if not in historic order, in importance of achievements; to Howe, of Nova Scotia; to the Wilmots, of New Brunswick; to yet other names of distinction in the Australian Provinces. All these names are deserving to be inscribed side by side upon a common roll of honour: for all have wrought upon a common task—the raising of the great Imperial edifice of to-day.*

Canada's portion in the work of erecting the edifice I have been endeavouring to sketch, has necessarily been far from insignificant. Many of the most conspicuous courses in this great struc-

*Not one of these, in Canada at least, I believe, has yet been honoured by native gratitude with any public memorial befitting his honorable services to his Province and to the Empire.

ture are formed of stones which Canadian builders have supplied. Generations of patient workers, in quiet and Provincial obscurity, have contributed no unimportant portion to the composition of the great whole.*

Imperial and Colonial statesmanship, even at times when apparently opposed to each other, have unconsciously interacted, as the warp and woof of future destiny. The Imperial Constitution of 1791 was the work of a great man, the younger Pitt; and it appears to me to have been a wisely-shaped and well-planted stepping-stone to all future pro-

*Very blind, it seems to me, are those who declare that Canada has no history. A history she has, not wanting in picturesqueness, and full of importance. She has records both interesting and honourable. We are accustomed to think of the history of what is now the British Colonial Empire as beginning with the illustrious name of Chatham. The work of Chatham was indeed the pedestal on which all our later work has been erected. But let us not forget that the English conquest of Canada stands on earlier foundations. The great

gress. Even those principles which afterwards became effete, and required some change, had served a good purpose in their time. The passage by the Parliament of Great Britain, of that Act, I have already referred to as the first decisive step in the creation of the modern Constitutional Empire.

It seasonably recognized the justice of the Colonial protest of 1774 against the imprudence of the Quebec Act, in surrendering a vast Province to French laws and institutions. The Constitution of 1791 set apart the best part of the unsettled territories of Canada (roughly speaking,

period of the French discoverers has left its indelible marks. Typical of a race of zealous pioneers of civilization, and worthy of lasting honour from those who occupy the lands whose map he first traced, is the romantic figure of Champlain. In due time, following the adventurous explorations of another race, Chatham's genius and steadfast purpose accomplished the victory in North America —temporarily of the British flag, permanently of the spirit of British institutions: Freedom of government, Freedom of speech, and Toleration in religion.

all that lay west of the Ottawa River) to be a separate Province for English immigration. Its separate Legislature had the power of making its own laws; and its first act, accordingly, was to introduce the English Common Law as the rule of decision in Upper Canada. Lands in the new Province were to be granted free from seigniorial institutions. As a set-off against the great Roman Catholic establishment, secured by treaty to Lower Canada, Protestantism was to be as firmly established in Upper Canada. The support of Protestant clergy in every township was guaranteed by the endowment of a certain portion of wild lands.

For thirty years those provisions continued to answer the design of their originator. The end of that period saw Upper Canada filled with a population by a large majority English and Protestant: that had undoubtedly been attracted

by those very assurances and guarantees. Upper Canada had become a Protestant Province, and the institution of the Clergy Reserves had served its primary purpose. The time had then arrived for revising the provisions of the Act, which had grown inconvenient, while they had become unnecessary. Closely allied with the constitutional struggle was the agitation for complete separation of State and Church.

The object of the Clergy Reserve provision was stated in the Act to be the *instruction of the inhabitants* in the Protestant religion. Instruction in the Protestant religion implied the teaching to the youth of the parishes the essentials of an English education, to the extent, at least, of the art of reading—the gate to all learning. The clerical establishment, therefore, was, in this manner, virtually charged with the

function of education, as well as with the offices of religion.

The struggle of a generation resulted in the devotion of the unappropriated Clergy Reserves to this primary object —the education of the people, but unencumbered with clerical support or control. But that the original principle of the Protestant Church establishment was welcome, rather than otherwise, to the early settlers is proved by their own early legislation. In 1793 they enacted a parish constitution for Upper Canada, imitating in the closest manner the intimate union of local municipal government with the Church establishment, as it prevailed in England. The "Act for the election of Town Officers" remained unrepealed until 1841; and until then the Corporations of the towns of Upper Canada continued to be the church-

wardens elected in the annual vestries of the Church of England.*

The rights of Colonial self-government were not obtained wholly without blood. The sole tragic page to be found in the long history of modern Imperial Constitutional development is that which relates the brief and rather melancholy story of the Canadian rebels of 1837. The insurrection of 1837 was a movement of party impatience more than an act of deliberate popular disloyalty. The motive of the long agitation that led up to it had been Reform, till a premature sentiment of despair accelerated the movement into Revolution. Through the failure of the movement its end was attained. The victims on the field and on the scaffold

*The records of the corporate elections of the town of York for twenty-eight years, until it became the city of Toronto in 1834, are to be found preserved in the books of the old church of the town of York—now the Cathedral Church of St. James—and there only.

were not vainly sacrificed to the progress of their country.

The necessity for reforming the features of the Constitution of 1791, which had become antiquated, in sympathy with the progress of Liberalism in England, was at length recognised; and the Constitution of 1841 placed the form of Government of Canada upon the modern footing, which has been the model elsewhere; and upon which, in Canada, it continued to stand, until, in the fullness of time, it was merged in the Canadian Confederation of 1866.

The justice of history has long ago removed from the names of those unfortunate men all the stain of the ignominious death, too harshly inflicted upon them, for their participation in a desperate movement, out of which so much good has come. Along with those names and that of their headlong, but less luck-

less leader, Mackenzie, history will place under the foundation-stone of the modern Empire, a long list of sturdy members of the early Assemblies: men who for years, both before and after 1837, maintained the battle of Liberalism with a patient and unflinching steadfastness that would not have ill become the annals of the Long Parliament.

The honours of the protracted contest for the rights of the Colonists to complete local autonomy rest with the commander who led in the decisive campaign, to the crowning victory. When Canadian gratitude, reflecting on a long chain of benefits, not easily won, for this and other Colonies, awakes at length to the duty of doing tardy honour to the memories of those statesmen who have served Canada best, Robert Baldwin is one whom it cannot fail to distinguish. The name of "the Father of Respon-

sible Government" is the laurel bestowed on him by his contemporaries in Canada, and conceded to him not by Canadians only.* He finally established the principle that the whole control of local administration, as well as of local legislation, must rest with the representatives of the people of each Colony, not less fully and finally than the same right inheres in the people of England, under modern Parliamentary Government in that country. When the monument of Robert Baldwin is founded on Canadian soil, it will commemorate a Provincial statesman, whose work belongs to the history of the Empire.

A place beside him, it is to be hoped, awaits Lord Elgin, one of the most noble-minded of a race of Imperial Viceroys:

*Recently it has been handsomely acknowledged by Sir Gavin Duffy, in his recent article published while this work was in progress.

the first, unflinching administrator, under the most trying circumstances, of the recently conceded doctrines of Responsible Government: the diplomatic statesman, whose persuasive eloquence assisted to accomplish the first Reciprocity Treaty.

After the struggles for complete internal control, or "Constitutional Government," had come to their triumphant close in 1851, almost a generation was allowed to pass, quietly occupied in the work of consolidating that first stage of the great advance, in Canada and other Colonies. The farther step—the work of carrying forward the banner of national development to its last outpost, by establishing the right of Colonies to a voice in international negotiations, proportioned to their interest in them—is a work that has been almost begun and almost completed in our own generation.

Here once more, to the historian's view, the events of an advancing period will seem to cluster around one pre-eminent personality. Once more the experience of Canada has furnished Constitutional law with some of its leading precedents.

The eminent talents and patriotism of the Hon. Edward Blake did not fail to leave their mark, during his comparatively brief tenure of the offices of Minister of Justice and Secretary of State for Canada. His arguments in Parliament and with the Home Government upon the question of the establishment of a Supreme Court, and upon the treaty-making power, were able and effective contributions to the progress of events. The power of talents, however, is limited without the favour of Opportunity.

As the victory of Constitutional Government within the Colonies is for ever

associated with the name of Robert Baldwin, so—justly or unjustly, for good or for ill—the position which has been won for all the great Colonies in the Empire of to-day, in regard to their external relations, will be found connected with the name and career of another Canadian Minister, who has been one of the most remarkably successful Parliamentarians in modern English history.

Rare, and happy, are public men who, being like Sir John Macdonald, endowed by nature with abilities to ensure Parliamentary success, have been crowned by their good fortune with a lengthened career, in a critical and formative period of their nation's history. They are enabled to sit in the shade of the institutions they have helped to plant. Something of what the long life of Elizabeth's great Minister Cecil, in the generation which witnessed the consolidation of Pro-

testant England, did for that momentous transition, the long successful political career of Sir John Macdonald has seemed to effect for this interoceanic Confederation of Provinces, the keystone of the modern Empire. And while serving that direct end he has indirectly helped to confirm the nascent right of Colonial intervention in Imperial diplomacy.

Little as this brief essay aims at the dignity of history, still less is it my intention to invade the province of biography. Panegyric of a living countryman would be unbecoming; and criticism is too premature to be impartial. At the same time, to avoid some mention of the most veteran and fortunate of Colonial public men would be difficult, when attempting to sketch the recent stages of our Imperial Consolidation, *quo magna pars fuit.*

If Sir John Macdonald was not the

Paul of Confederation, he was its Apollos. Admit that the scheme did not originate in his mind: that he must share the credit of working out its details with many able colleagues, at Charlottetown, at Quebec, and, finally, in London. But it had his steadfast support through a quarter of a century; and it prospered by the circumstance that, during all except five years of that period, Sir John Macdonald was in power.

To many minds Confederation, when first originated, seemed to have a precarious and experimental existence before it. Somewhat feebly and uncertainly the new order entered on its career. Threatened by external hostility, shaken by internal discontents, it might have suffered fatally from the wavering policies of a succession of changing Governments. Therefore it seems to have been fortunate for the cause that the advent of

Canadian Confederation found Sir John Macdonald,* as the result of half a life-time's previous struggles, at the head of something more than a political party :— what was rather to be described as an organization of tried and trustful friends, almost unquestioningly obedient to his leadership. With a force thus disciplined and compact he was able, once the policy of Confederation was taken up, to pursue it with the confidence and continuity that could alone, perhaps, have carried it to success.

The critical period is now past. The stream has always been kept rolling forward, till it has gained volume and momentum with the course of time. In formerly dissentient Provinces a new generation has risen up, educated under the new institutions, and having no living loyalty to other traditions. The battle

*Then the Honorable John A. Macdonald.

of Confederation has been won. It is not the first time in history that a strong-willed, centralizing, indefatigable personality, by his own determined grasp upon power, has contributed to the creation of a State.

Of one of the boldest and most successful measures, incidental to the policy of consolidation, and conversion of the Canadian into a Continental Confederation—the design of supplementing the political union by the construction of the Canadian Pacific Railway—Sir John may almost claim the authorship, as well as the execution. A railway from ocean to ocean, through British North America, though it had been projected by other men, at a very early period, as a dream of the future, was first seriously undertaken by Sir John Macdonald. Adopted as a measure of practical policy by his genius, it was urged to completion, at all hazards,

by his persistent force of will. This praise none can take from him. None can be blind to it who has followed the persistence with which, at times almost single handed, he enforced his project: always against bitter opposition, often upon unwilling followers. His first step was to commit the Dominion to the construction of the transcontinental railway, by adding an almost reckless covenant to that effect in the agreement for the admission to the Dominion of the Pacific Province, British Columbia. The principle having been made binding on both parties, there still remained a distinct issue of policy between Sir John and the old Opposition party as to the manner of putting it into practice. The issue lay between the policy of constructing the line by degrees, governed as to time and direction by the needs of local colonization; or of constructing it from terminus to

terminus, as a transcontinental line, as rapidly as possible.

The Opposition supported the former course, upon practical and economical grounds, which must still seem to have been plausible and sound in themselves. But, following that cautious alternative, it is doubtful whether the now famous continental line would even yet have been finished. We might have been spared much expense. Immigrants might have been concentrated, much to their advantage, in the least remote of the Prairie Provinces. But we should have missed the service of this great railway in making political union from ocean to ocean feasible. Its office in stirring self-confidence and the beginnings of national pride, in establishing the position of Canada in the Empire, and bringing her before the world, would still have been unfulfilled. Many former

opponents will confess themselves converted, by the event, into admirers of a faith and foresight, or, if they will,—a daring,—which were greater than their own. The cost may have been unduly great: the means may not have been unquestionable. But while we may criticise the details, we cannot but admire the finished work; which seems to be tacitly accepted in Great Britain as at least a large, if not a full, contribution by Canada to a peace establishment for the general defence of the Empire.

The veteran Premier, whose term of power has outlasted many fluctuations of party Cabinets in England, early won a certain appearance of stability for Parliamentary government in this new Canada. This stability no doubt went far to justify her admission into the delicate field of diplomacy. When the Home Government resolved upon the advanced step

of placing a representative of the Canadian Cabinet upon the Washington Commission, to negotiate the Treaty of 1871, the decision was certainly not uninfluenced by Sir John Macdonald's long career of skilful Parliamentary management, his known experience of affairs, the reputation he had established for moderation, prudence and success.

That most critical negotiation would not have been entrusted to weak or untried hands. Two things required to be known: the Minister's own moderation and discretion: and his ability to carry through the Canadian Parliament legislation confirmatory of any Treaty to which he might set his hand. In these respects Sir John Macdonald had won, and in the end amply justified, their confidence.

As a Commissioner Sir John braved popular clamor from his own Provinces,

by not insisting upon coupling Canada's claims against the United States, on account of the Fenian raids, with the settlement of the Alabama damages. Loss and injury had certainly accrued to Canada, under circumstances of neglect of international duty on the part of the United States Government, very similar indeed to those acts or omissions of Great Britain on account of which the same Government was claiming damages for the escape of the Alabama. But under the absolute slavery of both the United States parties to the Irish element, no such settlement could possibly have been carried through Congress. To insist on it was simply to wreck the prospect of a Treaty settling many other important issues. Had Sir John taken the extreme course, which a weaker Minister could hardly have avoided, and withdrawn, protesting, from

the negotiation, it is fairly certain that it would have been long before the precedent of recognizing Canada in the appointment of negotiators would have been followed.

It was true statesmanship to perceive that temporary loss was balanced by future gain; that the abandonment of a million, or more, claimed for past raids, was as nothing, compared to security against the recurrence of similar injuries. Nothing was surer to create that security than the establishment of Canada's right to participate in the making of British Treaties; by which, in the course of time, it was to be made manifest to the neighboring Power that Canada and the Empire were one, and that Canadian interests would be guarded as those of Britain herself.

Not without corruption, it must be confessed, have the foundations of the

Canadian Confederation, and with it the vaster Confederation that includes it, been cemented. Those that labour on foundations will sometimes labour in the mire. Order and progress were to be educed out of a chaos of sectional cries and conflicting interests. Needy constituencies were clamorous. Unwilling Provinces sent up appeasable representatives. Masses of popular bigotry were only managed through the insincerity of their leaders.

The writer has no intention of becoming the apologist of corruption. The cause in which it is used may not itself be a selfish or ignoble one. But it will always be better for the statesman's fame, as it will be better for the character of his countrymen, if he has been able to wholly dispense with all sinister aids. Corruption is, by confession, only a substitute for greater ability to convince and

persuade, to inspire other men to broader ideals by purer means. The charity of history will measure and explain, but it will not conceal or condone. It must diminish the character of the statesman who uses doubtful means, even for the worthiest ends, however successfully.

The "National," or Protective tariff system, of which Sir John was the introducer into Canada, was originally an innovation that the hostile policy of the United seemed to justify, and revenue necessities made imperative. But it is a policy of which it may be said, after twelve years' experience of its working in Canada, and more than twice as long of its prototype in the United States, that, while its merits as an economic measure may be disputable, of its potency as an engine of government there can be no doubt. As a channel of contribution to the Parliamentary Exchequer, as a

means of coaxing and threatening individuals, classes and localities it is unrivalled. Moreover, the narrow and jealous spirit of protective laws, by natural selection, brings to the surface of that department minds that do little honour to an Administration or a country.

Some of the meanest transactions of which Custom House officialism has hitherto shown itself to be capable have taken place on the Canadian border under the regime of the "National" system. A future generation, there can be little doubt, will review the whole Customs law and practice of our day with amazement. Step by step the Acts have been made more stringent and more tyrannical. They abound in presumptions against innocence and the liberty of the subject. In their constant onus in favour of forfeitures and official oppressions they adopt the principles of modern Turkey.

Such legislation would not have seemed strange in France under the old *regime*, or in England before the days of Hampden. But its existence is a degradation of the statute-books of a free people. It is the greatest mark of relaxation of public spirit when a nation suffers the principles of liberty, and the safeguards of the public, to be set aside for the sake of helping the Government to collect revenue more easily. It is a testimony to the effect of the enslavement of party that majorities in successive Parliaments should have become so completely deadened to a sense of their duties, as the guardians of the principles of individual freedom, as to pass and confirm these laws, at the bidding of the Exchequer, almost without comment.

When we trace back the growth of political corruption through our history to its origin, we shall be startled to find

that the germ of the evil weed was sown along with the good seed of Constitutional Government. It dropped from the pure hand of the Father of Responsible Government himself. Human judgment is often perplexed to decide upon a controversy, where one party is seen to be upholding wrong principles, and the other wrong measures. Such was the nature of the very issue over which the battle of Responsible Government was fought between the Canadian Liberals, under the Hon. Robert Baldwin, on the one hand, and Lord Metcalfe and Earl Cathcart, the last defenders of the old theory of Crown Government, on the other.

"What the Queen cannot do in England," said the Canadian Liberals in 1846, "the Governor should not be permitted to do in Canada. In making Imperial appointments she is bound to consult the Cabinet; in making Provincial appoint-

ments the Governor should be bound to do the same." To maintain the contrary, they very properly urged, was "to convert the Crown, from being the Executive head of Constitutional Government, into a repository of ancient prerogative, inconsistent with the spirit of the age, and incompatible with the liberty of the subject."*

This was the great standard principle of the contest of the Liberals with two successive Governors. Yet, when we turn from the principle to the particular issue, we cannot but respect a high-spirited Governor's reluctance to accept these doctrines. "I am required," exclaimed Lord Metcalfe, "to give myself up entirely to the Council; to bestow the patronage of the Government *exclusively on their partisans;* to proscribe

* Dent's "Canada Since the Union of 1841."

their opponents."* In other words," he declared, it is demanded "that the patronage of the Crown should be surrendered to the Council for the purchase of Parliamentary support." We must sympathise with the aversion he expressed to degrading his high office into a machinery for "the exclusive distribution of patronage with party views." We recognize a very modern ring in his protest that "office ought, in every instance, to be given to the man best qualified to render efficient service to the State." The Liberal leaders did not seek to extenuate the construction placed upon their position. They accepted and defended it. "Could any Government," Robert Baldwin asked the House of Assembly, "be carried on which did not support its own party? Let those who thought otherwise go and fill the empty

* Dent, p. 295.

Treasury benches, and see how long they would occupy them if they did not support their own party."*

Experience has not diminished the force of Mr. Baldwin's apology for the necessary evil of patronage. Multitudes of voters will not trouble themselves to go to the polls, except under the spur of party organization. The support of party organization implies sacrifices, of time and money, for which some compensation is expected. The compensation takes the doubtful, and not very adequate, form of appointment to vacant public offices. These fall as prizes to a few, leaving the larger number of expectants disappointed, and a great quantity of services unrequited. Yet the system of thus rewarding public spirit (which in practice it is not easy to distinguish from *party* spirit), when applied in moderation, by

* Dent, p. 342.

conscientious men, might possibly be carried on without perceptible harm to the public service, or to political morals.

Such, no doubt, the practice was, in the hands of its high-minded originator, in that early period, when Parties had not ceased to be founded on principle. The system survives, unfortunately, while the character of its founder, to a great extent, belongs to the past.

Patronage carries within itself an evil and self-multiplying germ, out of which the whole system of modern political corruption has grown. The fatal principle is invoked, that the powers and resources of government are lawful prize, at the disposal of the Party in office: that a triumphant leader may, within his right, use them to secure his own position, and benefit his Party. His mental attitude, as he steps into office, is not that of a Trustee, but that of a Conqueror.

Party leaders have imitated the analogous course of William of Normandy and his successors: they have proceeded by successive degrees, from administration to distribution, from distribution to confiscation, from confiscation to rapine. Commencing with offices, the practice has extended to franchises and bonuses, to lands and forests: to forms and degrees of misappropriation, from the mention of which the Father of Responsible Government would have shrunk with horror.

Until something has been devised to replace party organization, by doing its work in overcoming *electoral indolence*, "Civil Service Reform," the cure for the evils of patronage, will never be loyally adopted, in countries which have no leisure class, able and anxious to pursue the ambitions of politics for their own sake. "Compulsory Voting," the remedy suggested to meet this difficulty, in its

extreme form would be worse than the disease. The spectacle of a mass of indifferent voters, dragged from their homes by warrant, and marched to the polls, under guard of an army of truant officers, would not do much to restore the credit of Free Government. Partisan enthusiasm and energy may be misdirected, but they seem to be entitled to a preference over habitual indolence and indecision. *Vigilantibus non dormientibus curat lex.*

On the other hand, Compulsory Voting would tend to destroy one of the few checks, which the opinion of the rank and file of the electorate now exerts upon the excesses of Party absolutism.

Elections are often decided less by strict partisans, who form the actual majorities, than by those passive dissentients who abstain from voting. The wrong-doing of their Party has paralyzed their

enthusiasm, without making them willing to repudiate their party allegiance. Not sufficiently dissatisfied to vote against its leaders, they are not sufficiently convinced to vote for its policy. Party, under present conditions, brings only volunteers into its battles. Compulsory voting, if enacted, would arm it with the powers of conscription.

But there is a modified form of Compulsion, that seems to be practicable, and may prove to be an effectual remedy. The freeman who is constitutionally unequal or indifferent to the exercise of his franchise, ought to surrender a power, which involves a duty as well as a privilege. Continual waiver is practical forfeiture. But forfeiture, instead of being an incidental consequence, ought to be made a certain penalty. Were it enacted that non-user of the franchise for two successive elections should cause deprivation

for ten years thereafter, we should soon find few abstentions, except of those whose abstention would be no loss to the public interest. The reservation of the penalty to inveterate abstention would still leave enough liberty and elasticity, to save the bonds of Party from being drawn tighter than they now are. The body of the electorate would, by natural selection, become composed only of those who were qualified by interest, reflection, and purpose, to fitly compose it. Party organization would then to a great extent lose its *raison d'être.* Stringent and effectual regulations for Civil Service appointment and tenure, —even limitation and judicial audit of election expenses,—might then have the earnest support of the public, and even of honest Party leaders: and purer principles would begin to recover possession of political life.

Having by such measures secured an earnest and vigilant electorate; having also removed the immense power of patronage out of reach of the politician, making its exercise a matter of legal rule, and not of interested discretion: we shall have effected two important advances towards the rescue of popular government from its besetting evils. But the cause of Reform cannot repose upon a single successful effort.

The securing an earnest and vigilant electorate may be the beginning of victory; but *Simplification of electoral issues* is necessary to complete it.* An Electorate may be active and faithful; but zeal itself is confounded, when many contradictory issues are placed before it, at one time. The Empire and the Republic, by jointly agreeing to transfer a great part of the work of Diplomacy to the

*Chapter I.; chapter II.

more proper forum of Law, by means of an International Court, may relieve their representative bodies of *one* confusing function. But simplification, I believe, may be carried yet farther.

I will not here repeat at length an argument, elsewhere used, to show that, as Parliaments have ascended into possession of executive power, they have left behind much of their capacity for *deliberation*: the work which ought to precede legislation.* In fact, in modern times, the Legislature is everywhere a branch of the Executive. Parliaments and Congresses are but large Executive Committees of the Nation, acting by smaller sub-committees under various names. They are sent together, not to deliberate, but to *enact*. The *enactment* of laws, I have suggested, is much nearer akin to *executive* than to delibera-

* *The Irish Problem*; chapter on Industrial Parliaments.

tive processes. It gives the stamp of law to conclusions already arrived at by public opinion. The rude logic of popular instinct has long ago perceived and acted on this distinction. We have seen how, even under the American Constitution, what were intended to be the distinct offices of the Executive and the Legislature, are treated by the electorate as one.* By the same logic, nearly all modern Legislatures have adopted, in some form, the principle of the *Clôture*. They have declared that a Party, elected by the country to carry out some settled policy, shall be empowered to put an end to debate, as soon as (in the judgment of the majority) it passes the point of criticism of details, and becomes obstruction to the *principle* of the measure.

If Parliament is ill-fitted for the pri-

*Chapter II.

mary stage of legislation, for impartial weighing of evidence, for sincere criticism of arguments, for careful forming of judgments,—how do we supply the missing link in the social machinery?

For many purposes,—moral legislation, or regulation of subjects over which there is little room for conflict of prejudices or interests (subjects, in short, over which Governments are not liable to be made or to fall), in all these cases, the work of ripening opinion is sufficiently well done through the Press, through special associations for debating and spreading information, and through a thousand quiet agencies, by which public opinion shapes and communicates itself. But these methods fail us, when we face those great and burning questions, upon which Elections have thrice turned in Canada, and which are destined to involve much greater convulsions of opin-

ion, within two years, in a neighboring Nation.

For arriving at truth and justice upon that class of subjects, where *interest* is most personal and acute, where the facts to be compared are the most numerous and intricate, and the principles the most unsettled and obscure, an appropriate machinery does not exist.

Only by the mouths of the Parties, in Parliament, are the many-sided problems of modern industry left to be compared. Free trade, revenue tariffs, protection tariffs, prohibition tariffs, there confront each other. As if their complications were not enough, as if the need for complete and reliable evidence, and scientific analysis of it, were not already a sore one, we add to the mixture another set of questions, concerning the merits of Parties and Governments.

Legislation, I will once more venture to suggest, would gain by casting off a class of subjects which now trouble and darken its current, until they have been ripened for its action, by ample discussion in more appropriate assemblies. The simplification seems to me to be possible. Without repeating what I have presented somewhat fully elsewhere, I venture to urge once more the suggestion, that the great comprehensive questions affecting industry will never be fairly weighed and reasonably adjusted, except by the various classes—employers and workmen, mechanics and farmers, bankers and merchants, professions and universities—interested in them, and prepared by practice, or study to enlighten them: meeting together, by their special delegates, in one (or perhaps in many) great *non-political* conferences: where every interest shall have its hearing,

before a qualified, earnest, and, above all, *sincere* audience.

The ancient Commons assemblies themselves offer a model. The first Parliaments were simply meetings of deputies of the different *classes*, or estates, in the country. The divisions of classes in those early times were few and simple. The King issued personal writs to the military nobility and the endowed clergy. The merchants and handicraftsmen, forming the populations of the towns, and the yeomanry in the counties, were summoned to send representatives. In the early writs to the Yeomanry and the Burgesses are found particular injunctions to the Sheriffs to see that the representatives from those class constituencies should be persons of the like rank and calling.

The same English Parliaments (or Assemblies of Estates) were at first no more than deliberating and advisory bodies.

They petitioned for new laws: the power of actually enacting them was entirely optional with the Crown. The tradition of that original procedure is preserved in our Parliamentary forms. In our Statute-books, "*Her Majesty*," by and with the advice and consent of the Senate and House of Commons of Canada, *enacts*" to this day.

May it not be once more found entirely feasible for our different commercial and industrial bodies (organized as they are) to join in like representative conferences, for the preliminary examination of any question—tariffs, currency, or land disputes—which involves diverse class interests? Vexed questions between labour and capital would naturally come before such a forum. It would establish a clearing-house where practical experience would be compared and a balance of opinion struck. Reformations not infre-

quently take the form of revivals or restorations. Voluntary representative assemblies of industrial classes, scientifically inclusive of the various professions, trades and industries, and constituted for deliberative purposes only, would occupy a place similar, in principle, to that formerly held by the House of Commons, before it had absorbed the formal enacting power, and therein merged and nearly obliterated its capacity as a real deliberative body.

CHAPTER IV.

OUR CENTENARY YEAR.

It rests upon us, the citizens, happily, of a free and mighty State, to fix, cultivate and enforce among ourselves the idea of an unwavering allegiance. Modern citizenship does not reside in forced subjection, nor does it rest on paper Constitutions. One of the greatest of moralists has defined our modern notion of the freeman and citizen. Perhaps the corner-stone of European liberty is to be found in a passage, penned by that great educator, the Apostle Paul: (the very passage, strange to say, on which the Theologians, with traditional perversity, at one time rested their argument for absolute submission to

"the divine right of kings.") The Apostle did not preach the submission of slaves. He advocated co-operation, the act of freemen. Even alien subjects of the Roman Empire, St. Paul taught, although they had no part in devising the laws, might become co-operators, by obedience, with their law-givers and magistrates. They were to become *willing* supporters of the law, because the law was the interest of every social being. Thus he inculcated a great and pregnant lesson, which has not lost its usefulness. True citizenship commences in a *sentiment* of public duty, which must be cultivated in every individual for himself. Having this within us, we are not likely to be slaves; not having it, Franchises cannot make us free.

Upon *our* minds and wills, therefore, the pillars of our institutions rest. It is

for Canadians to resolve to teach a stable loyalty to those institutions, as a duty to their children; to require it to be the keynote of our Press; to exact it of every public officer, and make it a test of every public man: to be watchful that the bent of our local policies may always be consistent with it.

To readers in other Provinces of the Empire (should this little essay be so fortunate as to find any such) the Author may appear to have dwelt overmuch, in his review of the past progress of the Empire, upon the part that Canada has played.

He has termed Canada the keystone of the Empire. There can be no doubt that, were she removed, the remainder of the structure would not be long in dissolving. The tendencies of Canada, therefore, cannot but seem to be all-important to the

Empire. Tendencies are the fruit of character, and the character of Canada is being extraordinarily tested by pending influences and temptations.

Canada is the point of contact of the twin Federations that compose the English-speaking world. And unfortunately, for some time past, this point, upon which the two systems revolve, has been like a loose bearing, on which no machine can run smoothly.

After the great Civil War had revealed the United States as a formidable, possibly hostile Power, the position of Canada seemed to be one of peril. From both sides of the Atlantic we became accustomed to hear much of the fragility of the ties that bind her to the Empire. Those cries, too long repeated from both sides of the Atlantic, have done Canada, in particular, infinite injury. In her case

hesitation, always a miserable condition of mind, has been especially disastrous. So long as there is the appearance of indecision, American statesmen may be pardoned for endeavouring to influence it in the direction of their own wishes. We need not be surprised if influence takes the form not only of commercial attraction, but even of commercial compulsion. It seems to be against their political interest (international *humanity* being not yet recognized by politicians as the interest of a nation) to agree, even on fair and equal terms, to any advantages to their wavering neighbor, which would assist in rendering it too contented with an independent condition. This must continue to be their attitude, so long as such an object as the political unification of the Continent hangs before them. Thus those among ourselves who continue to magnify, before foreign eyes, the seeming precariousness of our

position, by dallying with the theory of a prospective independence, are really sacrificing substantial opportunities within their grasp, to the pursuit of illusory shadows.

A mere drifting Province, unanchored to any destiny: moving by tangents from Imperialism towards Independence, from Independence to Annexation, commands little respect. Time is ripe for removing all doubts as to the permanency of our status, fairly giving the neighbouring Government to know, when dealing with Canada, that it is dealing directly with the powerful Empire, of which this Dominion is the inalienable forefront upon our Continent.

Within, as well as externally, we should find resolution bring increase of strength. Were our minds clear and confirmed on this subject, of our constitutional allegiance to our own Sovereign and Govern-

ment, the young tendril of Canadian patriotism would no longer be bruised and beaten upon the ground, for want of a tangible point of support. Canadians would not then look on, indignant but helpless, at a portion of their population being instructed, in State-supported schools, to forswear the State: growing up to alien sympathies and a foreign allegiance. They would not witness, silent and irresolute, such a spectacle as was presented in the capital city of Ontario itself, when a whole body of Separate School Trustees were sacrificed at the polls, avowedly for the offence of having taken part (according to their duty as public officials) in the ceremonies of the Jubilee year, in honour of the venerable Sovereign who is the head of our Government. We should, then, assuredly see it to be our duty to inquire, somewhat narrowly, into the course of political

teaching carried on, under the auspices of every branch of our Public Schools.

Our Imperial Union offers valuable securities against the risks of war. It also promises us manifold advantages in peace. But if we expect to experience the benefits of union, it is necessary that we should cultivate the spirit of union.

Let not Canadians or Australians be too ready to complain, in advance, that British support is not to be expected for territorial or other rights that appertain to Canada or Australia:—as prematurely as English journalists have asserted that Canadians or Australians will not come to the rescue of the Empire, even if vitally endangered in other parts of the world. With what justice can Canadians and Australians accuse Great Britain of being half-hearted in the assertion of their rights in international disputes? How

can they complain, if neither commercial policy, emigration, nor capital has favoured the Colonies, while a large portion of the Press and many of the public men of these Colonies have been declaring the Union to be temporary, conditional and precarious?

Let us not indulge the language of suspicious partners, and of quarrelling commanders. Success, in any combined undertaking, depends upon a resolute, whole-hearted devotion to the joint interest. From jealousies and distrust, we know, nothing but weakness and failure can come. Consider our connection with the Empire as a voluntary alliance: liken it to a marriage, or to a partnership: is inconstancy an honourable or profitable quality in either relation? The firm always contemplating dissolution, like the married couple ever on the point of

divorce, offers a spectacle as unfortunate as it is discreditable.

Let us, citizens of this great Federal Empire, keep in mind what is meant by the proposal to depart from that union. It implies more than the severance of an historic tie. It involves the dissolution of our Constitution, the casting off our own Sovereign; a shock to the very sentiment of allegiance: a sacrifice equivalent in kind, if not in measure, to a weakening of convictions of religion and right, or to yielding our sense of the obligation of honour.

The position of the Canadian people is unique in the history of nations. So placed, geographically, that they seem to hold the keys of great destinies, they have been constantly reminded that it is left to their choice which way the portal shall be turned. It is in their power to interrupt

the drum-beat which encircles the earth. They are expected to determine a great problem :—Shall the world be divided among the English peoples according to the lines of longitude, or upon the lines of latitude? Influences press upon them from different sides. The most contrary notions are involved. To them has come, on a grand and visible scale, the balancing of hostile standards and the conflict of irreconcilable ideas, which are the portion of the millions born in this Century of transitions. Self-interest is set against the claims of gratitude, honour, and chivalry. Ideal aims and immediate material gain are advocated in turn, with mutual scorn.

Such issues have been placed before a people which has established no claim to originality in statesmanship or genius for speculation. The stern necessities of

a northern climate have kept it close to the practical. Canada can boast few brilliant orators, no sovereign imagination. She has given birth to no Dante, with undying strain to thrill the heart of the world. She boasts no illusory Rousseau, no persuasive Jefferson. Yet, perhaps, no people could have been so fortunately fitted, by its combination of qualities, for the grave election that has to be made by it. For the purposes of the definite issue it has to decide, the sober caution of the North has been better than the emotionalism, which even the English race seems to contract, in latitudes a few degrees more southerly. It is, in the main, an Anglo-Saxon stock, selected by circumstances, and placed amid surroundings favorable to the best development of its plain reason and its sober virtues. It may be wanting in imagination: but it need not be ashamed,

if its endowment be steadfast honour, homely conscience, and sturdy courage.

For the Canadian people their great Transcontinental development has done more than stimulate commercial energy and reinforce their confidence. It has vivified and idealized a native patriotism. It has lent the magic touch of imagination, that was wanting to awaken the sentiment of Country. Every young Canadian has traversed in fact, or has perused with keen interest, descriptions of the vast and varied realm that has become his own. Thought can now fly eastward and westward, from Sea to Sea. It follows the Plains of promise, (where the pure and cordial atmosphere even seems to rob Misfortune of her power to daunt) to the sublime summits of the West, traced—an ætherial outline —from our Southern border almost to

the Polar Sea. Who, but with a swelling heart, reviews that magnificent extent, from Atlantic to Pacific, dignified by every form of natural beauty? It opens before him as a land of opportunities. The pulse of youth throbs more vigorously, sensible of so many invitations to foresight, so many commands to energy. It is a land that is already being stamped as the home of a people possessing a distinctive, and not unworthy, character of their own. Everywhere that Canadians are found, are found the same signs. Everywhere the native mind is astir with the same new and hopeful life. Thus the ideal of Country rises upon the mind. Conscious of possessing a birthright in a fair land, a portion in a brief but romantic history, and a kinship with a national character of which none need be ashamed, expanding thought begins to burst the bonds of Provincial-

ism. With the sense of pride and hope is born the kindred instinct of gratitude: and the instinct of gratitude becomes the motive of responsibility. Nothing could be more interesting than the spectacle that Canada offers to-day. We are watchers at the Nativity of a patriotic sentiment. The mystic vital spark, the soul of a new Nation, may all but be seen descending.

Is it towards a puny Independence that these aspirations tend?

Prophets of disunion have always been busy with the Empire's impending fate. Time, however, has continually defeated their predictions. Decade follows decade, finding the constituent Provinces still closing, unbroken, around the ancient standard of their loyalty; leaving Kingdoms and Dominions still submitting

themselves manfully to the reasonable discipline of their great Alliance.

Ours cannot be the patriotism of an ancient people, bred within some sea-girt or mountain-guarded spot of earth, sundered from surrounding humanity by barriers of situation, race and language. Nature does not permit the young nations of the Empire a patriotism of prejudices, born of isolation and defended by ignorance. Theirs must be a patriotism founded on reason. They have been born too late to have their portion in many of the glories and many of the errors of the past. The future will have its own enthusiasms, but of another order. We enter upon a scene that is probably to be filled with struggles around moral standards; where nations shall be divided within themselves, over great battles of the intellect. Side by side with the

oldest and greatest of the English nations, these youngest offshoots of our English race must share in working out the grave problems of Government, of Industry, and of Morals, which lie before us all.

Well may we look upward, with natural awe, from the passes of the Rockies, towards those stupendous heights, erected by commotions of the past, now calm under crowns of perpetual snow: gleaming distantly over the noble Northern forests at their feet. Silent witnesses of the unmeasured forces of Nature, fulfilling the secret purposes of Time, are they not emblems, also, of the courses of our own history? Has it not been by processes almost as undivined and unobserved that these once feeble and scattered Provinces have been at last developed into a Nation: associated, on equal terms, in the promise and responsibilities of an Empire, having its por-

tion in the wide destinies of a great race?

Since the battles of the future are to be moral battles, the issues of them will not depend upon the force of armies, or the wealth of nations, but upon the *character* of populations. It would be an ill preparation for that future, if some passing crisis should cause a youthful and promising people to subordinate to any other motive those primary and most necessary virtues, Fidelity, and its companion, Courage: qualities upon which have depended, and will always depend, the honour of men, the security of Society, and the strength of Nations, both in peace and in war.

It is possible that we are even now standing on the threshold of one of the great revivifying periods of human history. Our generation may be destined, before it passes away, to see our noble

systems of free government everywhere indignantly swept of the corruptions that have defaced them. Soon Industry may be seen emancipating itself from its bonds, imposed by unnatural tariff laws, by the unregulated interference of great corporations, or by its own ignorant impolicy: promising unprecedented effects upon the prosperity of the world. Even Theology may be about to cast its effete leaves, under the vigorous impulse of a new Reformation.

Let it engender a just pride and hope in the Dominion of Canada of to-day (albeit not altogether free from perils and difficulties) to contemplate the insignificant beginnings, and the infinite struggles, through which it has arrived at its present estate.

The Constitutional Act took effect by Proclamation on the 26th December, 1791. Months were allowed the news

to cross the Ocean and penetrate, over Indian trails, by lakes and woodlands, to the limits of a wilderness Province. When, on the 17th of September, 1792, Governor Simcoe read his first speech to the first Parliament of Upper Canada, (on the site to which tradition still points in the antique little town of Niagara), there were present only five out of sixteen members of the Assembly, and only two out of seven Legislative Councillors. Even the Chief Justice, who was to fill the office of Speaker of the Council, was absent. The five members of the Assembly, we are told, were duly summoned to the bar of the two "Lords," the "Speech" was read, and Governor Simcoe, with his adjutant and two secretaries, attended by a guard of honour of fifty soldiers from the Old Fort, departed from the hall.*

*I owe these particulars (from Rogers' History of Canada) to Sir Adam Wilson's speech at a public meeting in Toronto, on the subject of a centenary celebration.

Quaintly reads the attempt at solemn state and circumstance that surrounded the primitive assemblage. Yet in the roll of absentees there is an almost pathetic indication to us of the immense difficulties of travel that beset these poor and scattered early settlers; and of the sacrifices which the performance of their public duties must have imposed on them.* Delegates from historic Cape Breton, on the Atlantic, and from Vancouver Island on the Pacific, are about to attend the first session of our Centenary Parliament. From the extremities of our Continental Dominion they will assemble in their stately Chambers at Ottawa, under a less burden of fatigue and time than was laid on those members of the first Parliament of Upper

*When, in 1805, a lad was sent from the later Capital (York, now Toronto,) to the only classical school in Canada, the *summer* journey from York to Cornwall *down stream* occupied eight days.—*Ten Years of Upper Canada*, by Mrs. Edgar, p. 16.

Canada, summoned from their clearings on the Detroit and the St. Lawrence, to their rude Capital on the shore of Lake Ontario.

They were men whose living depended on their daily toil: those who were able to meet had not come to idle. For *them* politics was by no means a game. As we turn the pages of our early Statute-books we might find models for later times, in their selection of the most serious and weighty objects of legislation, in the judiciousness of the enactments, and in their general carefulness of expression. Out upon the Politician of to-day, if he dare to smile at the solemn records of that little Parliament! Let him respect—may he endeavour to imitate—the simple, honest work of those worthy forefathers of our State.

Shall the Century which has given birth to so many noble Provinces, and which

has seen an ancient Empire re-erected on broader foundations, close without some commemorative observance? Shall the long tale of the achievements of the past go by unrecognized and unhonoured? Will Canada, in her Centenary year, erect no monument to any of the worthies of her constitutional history? Will she forget to strew some flowers on the graves of 1812?

Through an accidental coincidence, the year 1891 is likely to be distinguished by the creation of a Federated Australia: so that the century will be crowned by an event of like significance with that which commenced it. We might invite that other rising nation of the Empire to join with us in celebrating the occasion in a manner becoming its interest and importance. The year which will close a century of constitutional progress for it, as well as for us, might be best

celebrated, not with arches and processions, or other evanescent displays, but by an act which would itself become a memorable step in our common history.

The disavowal by a Colony of its Constitutional Sovereign head, we have seen, would be a symbol of disunion: an actual disintegration of the Empire. *Per contra*, therefore, if a Colony wishes to confirm that union—to record before the world its permanent adhesion to the Federal Empire—the appropriate mode of declaring it is by some decisive measure that will give a clear expression to its direct connection with the Imperial Monarchy.

I have remarked upon the present inadequate form of the Royal title. I also referred to the intention, once announced by the Home Government, of including the Colonies, in an appropriate manner, in the enumeration of the Royal domin-

ions:—and to the singular withdrawal of that offer.* Its effect, I have suggested, would have been to declare the Queen to be not only Queen of Great Britain and Ireland, but Queen of Canada and Australasia, British Africa and Newfoundland. It would have established their status before the world, as being not dependencies of Great Britain, but distinct and substantive realms, subject only to the Sovereign of the Empire, the one Constitutional Head of their many independent, but allied Governments.

I think, if not the true explanation, a quite sufficient cause for the withdrawal of the offer all but made by the Home Government may be discerned. The general *silence*, which followed that announcement by the Minister for the Colonies was as remarkable as it was discouraging.

*Chapter III.

What may have occurred to the contrary in the privacy of the Conference is not known, and is unimportant: it is certain that, at that time, neither the Conference as a whole, nor any of the representative bodies in the Colonies, nor the Press of the Empire, gave any public sign of enthusiasm. One might say that no response, no perceptible emotion whatever was evoked. Such a reception of their proposal might well lead Her Majesty's advisers in Great Britain to pause before proceeding to fulfil it. The universal silence, without being a sign of opposition to the momentous step, seemed to give clear warning that it was premature. It demonstrated that if the measure was not unwelcome, at least its significance was not at all appreciated. The Home Cabinet might well recall the offer of a partnership which the Colonies were so slow to accept; they might well allow the

concession to wait some riper moment when it should be actually demanded. It is not the instinct of statesmen, even the most liberal, to *volunteer* a surrender of any portion of their power, or to involve their position with undemanded complications.

Besides, the absence of Colonial enthusiasm may reasonably have suggested to the minds of Her Majesty's Cabinet at London a very serious motive for caution During the last quarter of a century the Crown (under the sole influence of its local Home advisers) has been in the habit of making very faint claims to a permanent Colonial allegiance. It was a tie, according to the language sometimes held by Ministers of the Crown, so loosely held that to snap it would not have been necessary; on the least resistance, at any moment, it would have been let slip. Even among less "advanced" thinkers,

no one, at this period, professes to regard the possible separation of a modern Colony with the feelings that a similar subject excited in George III., or even in the mind of Shelburne, the most liberal Englishman of that day. No one is in the habit of applying to a second partition of the Empire Lord Shelburne's prophecy over the first... Modern statesmen are not found declaiming that, when that event shall happen, England's sun will set for-ever. On the contrary, the simile of the "ripe fruit," naturally dropping from the parent bough, has been invented. The phrase has long been ready to the lips of English statesmen: a philosophic conso-lation, stored up against the anticipated calamity; a buffer against a coming shock to the prestige. The event being in a manner already discounted, its moral effect may thus be supposed to be minimized.

Now this philosophic unction will no longer be available, after the step proposed in 1887 has been accomplished. Separation of Colonies, that had been solemnly declared to be individually integral parts of the realm, would be disintegration undisguised. The "ripe fruit" theory could no longer be applied to a Colony that had once been incorporated by name into the Royal title. The attempt, on the part of such Colony, to declare itself independent, would be a Revolt, the success of which would present itself to the world as a humiliating calamity. Was not this a risk which it would have been reckless to invite?

What guarantee could be provided against such a result following the action of the Crown? A solemn guarantee of the permanent maintenance of the status of the Colonies, it is obvious, can only proceed from the Colonies them-

selves. *Their* honour and allegiance must be pledged, on their own behalf, by their own action. They could not be assumed to be pledged to perpetual loyalty by any mere variance of the Royal title, initiated independently of their Governments, by advisers of the Crown at Home. Passive acceptance of an unasked exercise of the prerogative would have no binding effect on any Colony.

Moreover, are there not constitutional reasons why such a step should owe its initiation to the Colonial, not the Home authorities? The assumption of a title is an act of the Prerogative. But, like every other prerogative in our day, it is no longer a personal power of the Sovereign. It is a power to be exerted on the advice of her subjects. Upon the modern theory of the Constitution of the Empire, as I have endeavoured to sketch it, an act which would affect in

the most direct manner subjects resident in a Colony, ought not to be undertaken by the Queen at the instance of her Home advisers alone, without the concurrent advice or petition of Her Majesty's Privy Council for every Colony proposed to be included. On principle, therefore, it seems to lie with the Government of some great group of Colonies, like Canada or Australasia, to move the Crown and their fellow-subjects to the step that, once taken, shall declare to the world, once for all, the firm and established unity of our modern Federal Empire.

The announcement formerly made to the delegates of 1887, yet unacted on, stands as a suggestion that Her Majesty and the Home Government are willing to recognize the claim of the Colonies whenever they present it. The withdrawal of the offer is an intimation that, however willing, the Crown and Home Govern-

ment must wait for a corresponding movement in that direction from the Governments of the great Colonies.

The liegeman, according to ancient forms of chivalry, must present himself and declare his fealty to his lord, to entitle him to receive the symbols of his investiture. On themselves, likewise, it depends, whether these separate self-governing nations shall be made visible to all the world as distinct jewels in the Crown: recognized members of a second great Federation of English-speaking peoples.

How much longer shall the world await that step? Is the adoption of the new title reserved for the occasion of a new heir succeeding to the ancient throne? May it not rather fitly crown the long and glorious reign, in the course of which already, by slow degrees, such a series of great and peaceful revolutions has

been wrought? What occasion could be more appropriate than the centenary of the Constitution of 1791, the Parliamentary beginning of the New Empire, for a joint petition of its many Parliaments, constitutionally praying Her Majesty to assume her complete title, and be declared, as she is in fact, Queen of Great Britain and Ireland, Canada, and Australasia, (Newfoundland and Africa,) and Empress of India? It would be the solemn form of acceptance, the act of consecration, of the great structure, which the patience of a century has been slowly but securely building for us. It would at once entitle us to demand all those further reforms in practice which have been suggested. It would ensure the speedy repeal of inconsistent legislation: a distinct voice in negotiations with foreign countries: and a part in the constitution

of the Judicial Committee of the Privy Council.

On the foundation of our independence, as a Nation of the Empire, may a larger structure now arise. Canada has had, as it were, her warrior leaders, who have served their day. May the same (or perhaps other hands, that have not been imbrued in the bitterness of the struggle) be called on, in due time, to a higher duty—that of creating an International Supreme Court of Appeal: thus laying the corner-stone of the design, planned more than a hundred years ago, of a Confederacy of the English-speaking world.

Our histories since the Great Separation,—first hostile, then parallel,—promise to draw nearer. In the neighbouring country, the issue of a century, finally decided at the awful assize of War, is now at rest forever. Blood and

iron have done their work. Victors and vanquished accept the result. Side by side, under the sod of many battle-fields, the brave who fell on both sides are gathered beneath the flag of a firmly-established Union. Decoration Day casts its flowers, with equal hand, upon the no longer contending dust.

Long ago, likewise, the iron Style of War indelibly confirmed the boundaries of the Empire. *Our* ancestors, also, fought to maintain a great Union. With sacrifices and sufferings they decided for us that it should be permanent. Wherefore do dishonour to their worth, by abandoning their work, without an adequate reason? The dream for which they sadly struggled, against disheartening odds, has become a great and beneficent reality. The New Empire now unites Continent to Continent. Drawing, on one hand, from England's never

failing well, it distributes population and wealth to many Colonies, that are quietly growing into Nations; it spreads peace, toleration and justice over the trampled soil of India. What lover of the honour of the English race would be willing to put that magnificent commerce in peril? Who, but an enemy of civilization, would desire to strike the keystone out of that world-embracing arch?

Were we left to appeal to sentiments of race affinity, historical unity, and the duties of humanity, in opposition to some material interest, we might expect the appeal to fail. The fashion of the time is for men to proclaim their disregard of all except "practical considerations":—a general synonym for sordid motives, that easily becomes a cover for baser aims. The candour of the disclaimer is accounted as a substitute for the virtue disclaimed. Our appeal, however, is not

to Sentiment, against practical reason: but from sentiments that are narrow and false to a truer sentiment; and from a mistaken view of economic interest to a sounder one.

"The people everywhere have but one interest, properly understood." So wrote Lord Shelburne more than a century ago: and, at least on this Continent, the truth of the saying ought to be becoming obvious. On both sides of the border line, which divides this nation of the Imperial Republic from its sister Republic to the South, similar influences are at work. On both sides, a great simultaneous movement is arising, towards a reasonable adjustment of the far-reaching questions of trade and industry. Hitherto there has been little more than an inarticulate, half-conscious struggle, with a nightmare of ignorance and error. In both countries the party politicians,

now of the one Party, now of the other, (perpetually wheeling—Cormorant-like—over the troubled surface of Public Opinion) are ready to seize upon whatever its movements may bring up to their advantage. Let one Party, in either country, ally itself with the extreme theories and selfish interests of its local Protectionists, the other prepares to find its account in inciting the selfishness of a different class, to an equally reckless revolt, to the opposite extreme.

Thus the refluent wave is kept swaying back and forth, in immense commotions. The commercial destinies of a Continent are at the mercy of a bare majority of votes: passing, in the uproar of Elections, upon intricate issues which have never been debated, in their many aspects, by any Conference, national or international, of direct representatives of all those commercial and industrial bodies, whose

members are so sincerely and vitally interested in a true, deliberate, and *lasting* determination.

One delusion which lies at the bottom of all misanthropic commercial policies, (and also inspires much dishonest practice among working men), must infallibly be put to flight, at the first skirmish of a general debate between the Captains of Industry and their followers.

The annual profits of production are shared between Labour and Capital. The relative proportions are regulated by the rule of supply and demand. While capital is deficient, labour competes for it, paying interest at the highest rates for its use. As wealth accumulates in the community, by continued peace, thrift and industry, *capital* finds itself competing for employment by labour, and the rate of interest falls. Capital's share of the

profits of production becomes less, leaving the share of the actual producers precisely so much the greater.

Thus every person in the world whose income is derived from his own daily industry, whether manual or intellectual, and not from the mere income of past accumulations,—is a direct gainer by every permanent addition to the volume of aggregate wealth. Every "Organizer" who orders a wanton strike, is a Traitor to the cause of labour. He loads the scale of interest, increases the relative profits of capital, and lengthens the chain upon the neck of Industry. All eye-service, all scamping of work, helps to keep the reward of labour at its minimum. Labour, in the end, infallibly pays for *every* idle hour.

For the purposes of this great system of economy the whole civilized world

forms one community. Accumulated capital finds its level as surely as water. International boundaries are not now any barrier to its overflow. We suffer from the consequences of a conflagration which lays waste a neighbouring city, and from wars, or famines, which reduce foreign nations to poverty. The industrious in all lands form an unconscious brotherhood; all toiling for each others deliverance. Each artizan, in his workshop beyond the sea, is not so much a competitor as a comrade. We may not see the firelight upon his industrious countenance, bent over his honest task. The products of his labour may be destined for markets in the antipodes. Yet, none the less, every blow that falls upon that distant anvil is, in a measure, struck in our service. Just so far as it contributes to the increase of the world's surplus of wealth, it

emancipates all labour from the common burden of interest.

Hence the great mass of the people everywhere are interested in every law of Commerce which is conducive to the most economical production. They are injured by every policy or practice which tends to waste of materials or time, or to the extravagant consumption, loss or destruction of the products of wealth: and by every tariff which discourages the best use of the advantages of Nature.

There are at the present time two forms of investment by which capital is enabled to escape the operation of this general law. *Land* in older countries, and *Gold* everywhere, always continue to be competed for. As the operation of the law becomes universally known, as population increases and wealth accumu-

lates, capital will be tempted to seek landed investment even more deliberately and generally than it has hitherto done. How to regulate this tendency, without incurring the guilt and folly of confiscation—either open or veiled—so that these possessions shall conform to, and not defeat, the beneficial operation of the general law, will become one of the greatest subjects for future statesmanship. Its solution will demand all the assistance that can be given by many of those non-political conferences, representing all classes and all interests of nations: the utility of which I venture to suggest, in the case of Canada and the United States.

What might we not expect to result from such a general comparing of notes? Unsuspected facts would be brought to light; and conclusions, now altogether unforeseen, might be developed. Has

anyone, for instance, measured to what extent the *Railways* interfere with the trade questions which are now agitating this Continent? The energetic and patriotic Canadians, who have built up a city like Toronto into a centre of wealth and commerce, (and incidentally into a social centre of thought and influence, almost indispensable to the maintenance of an independent Nation), undoubtedly dread the effects of what has been *called* absolute "Free-trade," over the whole Continent. They believe that, as an independent trade centre, Toronto would decay. Many of her chief merchants look to a prompt removal to New York or Chicago as an incidental outcome of the change. When we examine their reasons, we will find chief among them these two: the greater facilities offered by the Railways to those terminal cities, and the growth of the Commercial Traveller

system. The latter, a consequence of the Railway preferences, places the merchants of intermediate places at the mercy of the great houses in either metropolis.

Our cities, hitherto partly shielded from the free operation of these causes by the Custom-houses on the national boundary line, were that tariff wall removed, would soon (not from natural causes, but by the despotic policy of the Railways) be crushed between those upper and nether millstones—New York and Chicago.

There is a Social as well as a commercial aspect to this question. The "bitter cry of outcast London," from across the Atlantic, is drowned to ears on this Continent by the answering wail from the tenement houses of New York. There, vast masses of human beings, denied a livelihood by the forced competition of the greater cities, are un-

naturally accumulated. Honest labourers cannot find homes for their innocent families, excepting in overcrowded dens, among the conditions of vice. This has been made the price of life, within sight of the Statue of Liberty. Were this a natural operation of inevitable economic laws, under a system of Free-trade, it would leave room for grave doubt of the absolute merit of that system. If these were truly the consequences of economic laws, might they not still be laws against which human nature would be bound to rebel? Where economic freedom seems to be too relentless in its operations, our modern Social Conscience curbs its excesses. Legislation sometimes asserts that Wealth is not the only, or even the chief, end of civilized life. But do those miseries flow from economic laws? Or are they the fruits of defective human legislation?

Legislation has created on this Continent a series of huge corporations, some of which are individually more powerful than many a historic State. They are the most absolute despotisms that now survive within the observation of civilized men. The means at their command for scattering prosperity over one, and ruin over another region: here creating Capitals, there bringing cities to decay, resemble not so much the powers of Governments, as the attributes of Providence.

These enormous opportunities of good or evil are wielded in almost every case practically by a single man; whose decrees, unhappily, are not always those of a merciful or of an All-wise Providence. The modern despots have their ambitions and their rivalries; and their huge contentions, like those of their prototypes, are sometimes conducted

without regard to the sufferings of a peasantry, or to the cost to subject Commerce.

It is the ambition of Managers, rather than the ultimate interest of the proprietors, that dictates the system under which traffic is carried for a thousand miles at a less price than for two hundred. Making every allowance for the convenience of "Long hauls," the principle receives a very exaggerated application. The farmer (whose bounty, it may be, helped to build the road) watches, with some bitterness, a procession of immense trains, constantly swinging between the centre of the Continent and the seaboard, at little profit (by a true account): while local harvests are depreciating for want of timely transport, and the growth of local industries is starved and discouraged, by the denial of necessary facilities.

Are the populations massed into the great cities, and the intermediate towns treated like obstructions in the track of the favoured traffic, sufferers from natural conditions and economic laws? Are they not rather the victims of the edicts of arbitrary despotism? It seems to me that those artificial laws are not more cruel to their victims than they are unwise in the true interest of the Railways.

It answers the temporary ambition of autocratic Managers to report, at annual Company meetings, an immense aggregate traffic, and a commanding position in great centres of Commerce. But shareholders (such as those of the unfortunate Grand Trunk) wait, from year to year, upon the promise of dividend-paying earnings from this volume of traffic; and they wait in vain. They at last

resign themselves, as they believe, to the inevitable unprofitableness of their vast undertaking. They never learn that the policy of their Manager, in his process of building up great terminals, perpetually sacrifices the growth of the only traffic which can ever afford to pay profitable rates of transportation,—the local interchanges of goods, carried for comparatively short distances, from town to town, in busy, thriving, and populous districts, subservient to the Railway. The result of twenty years of fair and equal service between the rising local towns, (that *Free Trade* which the Railways now forbid), would probably end in the Railway hauling a more abundant traffic, at paying rates, in local zones of moderate length; in such quantities, that the rolling stock would be as actively, and far more economically employed, than under the present magnificent, but wasteful

regime. By being the minister of justice and happiness to the regions it traversed, the Railway would profit, in the end, far more than it has ever profited from the strained, mistaken, and inequitable exercise of its enormous powers.

In the meantime, tariffs at national boundary lines, if they are an obstruction to general commerce, are not without utility in so far as they are some defence against this oppressive and destructive policy of the great Continental Corporations.

Shareholders are a helpless and easily deluded body. They are not likely to emancipate themselves from the policy which, with their Managers, has become a tradition. The immense influence of the Corporations is almost irresistibly concentrated upon our representative bodies. Like the greater Corporation of

Rome, they are generally found in good relations with the ruling party in our Legislatures. Appeals against them (armed, as they are, with terrorism and blandishments) from any one injured class or isolated locality, fall upon deaf ears.

Against this impregnable corporate despotism there seems to be no recourse for the sufferers on this Continent, unless by a simultaneous combination, representing all the industrial classes, from all localities: a non-political assembly, *en masse*, to demand relief from their common grievance:—a kind of Runnymede of the Nineteenth Century.

Undoubtedly there exists a unity of industrial interest between the two English nations, the partitioners of this noble Continent. Untrue to the interests of the people are those who deny it. Re-

creant from the cause of Civilization are they who burden it with any condition of *political* merger. Let us have faith that the practical good sense of these modern nations will find a way to disprove that antiquated doctrine. Commerce, I cannot but believe, will vindicate its ability to conduct its own negotiations. Perhaps by some method (such as has been hinted, rather than sketched) shall Freedom for Industry, just and scientific economic legislation, yet be established. To have its utmost humanizing effect, Commerce must mean something more than the Commercial Traveller. Bargaining must be supplemented by conference; the friction of rivalry may be smoothed by habitual collaboration upon larger common interests. May the record of the Nineteenth Century, before it passes into history, be brightened by a Commercial Peace, perpetually

secured by fraternization, rather than by treaties: a confluence of kindred peoples, beneath the crust of Governments and institutions.

Thirty-seven years ago, on the banks of the Niagara River, Lord Elgin and President Pierce discussed the preliminaries of a Treaty of Commercial Peace. There was something natural and fitting, as well as convenient, in their choice of a site for that personal conference. They met to give effect to the long-neglected spirit of the Treaty of 1783,—not in a great Capital of Diplomacy, but in the sublime presence of one of Nature's wonders.

I have a dream that the future has a destiny in reserve for the now neglected beauty of Niagara. The exquisite centre of the most delightful summerland in the world: on the border of the chief Province of the Dominion and of the

most important State of the Union: within twelve hours of Ottawa, on one side, and little more of Washington on the other: situation and associations seem to mark it for an international meeting place:—the *Ems* of America.

Why shall it not become the custom for Parliaments and Congresses jointly to spend an annual vacation on this same beautiful borderland? The Governments and Legislatures of two peoples, allied by race and history, whose relations are closely intertwined, whose interests in the course of nature should always run together, ought to hold frequent and familiar communion. They ought to be free from Lord Shelburne's reproach against the race of statesmen: "We are to legislate for men, and we do not know them: we do not even try to know them."

Viceroys and Presidents, attended by their respective Cabinets, now meeting only in diplomatic encounters, may become accustomed to assemble for friendly intercourse. The Conference of 1854 may be renewed, not once, but repeatedly.

On this border, blood-stained by ancient struggles, in which brave men fell on both sides:—on this pathway of the Discoverers, who pioneered the march of European civilization towards the centre of our Continent:—beside this sculptured gorge, a Gateway of immemorial Time, a sepulchre of prehistoric Æons,—where the silence of far more than forty centuries listens to the footsteps of to-day:—here let the pillars of a perpetual Temple of Concord be planted upon the battle-fields of the past. Let the New World once more become the teacher of the

Old. Let us celebrate the Discovery of America, by displaying its latest, worthiest fruits:—by exhibiting one more advance in the progress of enlightenment and humanity.

There is something in the sound of Niagara's ancient monotone, (to which the solid earth constantly trembles like a Cathedral floor), more apt, one would think, to impress a serious statesman's mood, than any chant that ever rolled through Minster aisle. On the mind that permits itself a moment's reflection the effect of the whole scene is to bring home one profound conviction:—how infinitely transient and ineffectual are the policies and passions of mankind, in opposition to the forward rolling of the great wheel of Nature.

Forever Lake brims over into Lake. Each drop out of the incessant, unmea-

sured volume of that Continental Cascade is hastening to fulfil a circuit of beneficence. Originally wafted from the deep, on a mission to distribute fatness upon fields and forests in the interior of the Continent, the same waters, on their return, bear the harvests they have nourished, on their way to become the food of distant populations. It is Nature's grand exchange:—uninterrupted by boundaries: regardless of flags and laws.

Wisely, apparently, it was formerly decreed that the English race on this continent should be cloven into two nations. Irrevocably sundered,—like the immovable cliffs between which the Niagara pours its unfathomable flood forever,—it may be their nobler office to prove to the world that two civilized nations may be as one people.

Across the gulf that divides them,

Nature daily builds her divine Arch. Is not the Rainbow the lovely emblem,—a sublime example to Nature's children, of harmony, perfect in diversity?

The era of strife and separation, we hope, draws to its close. War between these kindred nations—not merely wars of blood, but also not less unjust and cruel wars of trade,—blows struck by tariffs instead of by the sword—must soon belong to the past.

Statesmanship shall not always make its boast of triumphal arches, erected on the humiliation of some other portion of mankind: of immoral victories, won by over-astute diplomacy: of inequitable wealth, gathered at the cost of disproportionate ruin, inflicted elsewhere on the common cause of industry.

Contemplation cheers us with a more gladdening vision. We foresee our an-

cient Earth radiant with the glory of a new Age. The virtues of Peace are its occupation. It is illuminated with the unspeakable beauty of millions of happy faces.

CHAPTER V.

THE CRISIS OF THE EMPIRE.

Events move fast: and what an hour ago was a speculative possibility, the next seems to convert into an imperative necessity. While these pages have been passing through the Press, the Newfoundland crisis has come up over the Imperial horizon like a tropical cloud.

The case of our Newfoundland fellow-Colonists, in some respects, is strong. The rights claimed by a foreign nation upon the "French shore" of Newfoundland, not only in the expanded form now sought to be given them, but even as hitherto enjoyed, are becoming an intolerable anachronism. The Island of

Newfoundland is no longer, as it was at the date of the Treaties of Paris and Utrecht, a mere landing-place of European fishermen. In law, it cannot now be regarded as it was once termed—"A British ship anchored in the ocean." It has become a peopled Colony, with its Local Government and its native British subjects, feeling, like other Colonists, their citizenship and their rights.

At the same time, Newfoundland's case illustrates the difficulty of applying the broad modern doctrine of Colonial rights to comparatively small and isolated Provinces. They are preoccupied with local interests, and regard them wholly from a local point of view. It was to a great group of Colonies, formed into the Canadian Confederation, that the privilege of intervention in foreign diplomacy was first conceded, which in that case at

least has grown into an indefeasible right. When acting together in large masses, varied and extended interests require to be considered. A regard for proportion and relation—the statesmanlike habit of mind—is enforced upon such a Government. Combined action will therefore represent not only multiplied force, but a more probable assurance of prudent consideration, if not of justice.

The most vexatious privileges which French subjects enjoy upon the Newfoundland littoral are not secured by territorial *grant*. They rest upon a form of engagement that, following the analogies of private law, would be termed "a personal covenant" of the King of England. It was introduced into the Treaty of Versailles (1783) by way of rider upon the clauses of the Treaties of Utrecht and Paris. The form of this

article was the cause of great debate between the French Minister and the English Plenipotentiaries. The French Government strenuously demanded a *grant* of an exclusive right in the shore. They reluctantly accepted as a compromise the *covenant* that was actually given. The French Government well understood the distinction. A grant would have been permanent, irrevocable, and directly enforceable by the arm of the French Government. The *covenant* gave no territorial footing. It did not even amount to the creation of what might be called an easement. The covenant, as it is, is one which no international court, if it existed, would undertake to enforce specifically. It would only adjudge compensation for non-fulfilment, in money or otherwise.

Circumstances have so changed since

this covenant was given that it becomes a question whether this option, implied by substituting the form of Covenant for the form of Grant, ought not to be availed of. The inconvenience in modern times of anything resembling an *imperium in imperio*, and the somewhat galling manner in which the French have overstrained their privileges, call for their extinction, in the interests of peace and good government. Compensation, to be adjudged if necessary by arbitration, is all that equity demands.

What is just, however, is not always expedient. To enforce a revision of the Treaties of Utrecht and Paris and Versailles at the present time might be to precipitate events that would not merely affect the welfare of the Empire and all its Provinces, but would put the progress of Civilization in some peril. The present

temper of France, strained with the burden of protracted armaments and burning with revenge delayed, is a constant danger to the world. *Chauvinism* in that country is an element as misanthropic, and almost as strong, as the Fenian influence was in the United States, until Mr. Gladstone drew its sting, first by concluding the Treaty of Washington, and secondarily by carrying through the Irish Church disestablishment and the first Irish Land Bill—whereby he entitled himself to the everlasting gratitude of the English race.

This state of mind in France is shared by nobler men than the Chauvinists. It has its inspiration in a true, though (as we may judge) misdirected patriotism. Terrible and heartbreaking was the humiliation which fell upon the French nation in 1871. It was not merely the

dissipation of its overweening dream of pride, fed upon the memories of victorious periods, when all the military genius of Europe seemed to be concentrated in its generals. It was not merely the absolute loss of the border Provinces, once torn from Germany by the fortune of war, and now by the fortune of war restored to her. There was much more than this in the memories of Sedan and of the siege. In the eyes of Europe and in her own, France felt herself to be not merely unfortunate, but disgraced. The revelation of corruption, weakness and incapacity, made by the war, depreciated her before the world and threatened to destroy the self-confidence of her own people. Her patriots did not lose their self-confidence. They felt, and continue to feel, a burning indignation against the injustice of the fate which first subjected France for twenty years to a villainous

usurpation, the fruit of a midnight crime: which undermined her strength by a generation of that corrupting rule, under an Emperor maintained by bayonets, but unredeemed by the one virtue of military usurpers—capacity; and thus having assiduously prepared defeat, flung the country into the humiliations of 1870, with anticipatory boastings that made her fall ridiculous.

Loaded with debt, with diminished territories, a perpetual monument of disgrace, a proud people was plunged into depression. There was reason to fear that the spirit of the nation might be broken. The hope of revenge became a saving tonic. France has recovered herself, in reorganizing for the continuance of the *Vendetta.*

Unfortunately the Chauvinistic direction of the reviving spirit of France has re-

ceived an impulse from an unexpected quarter.

European militarism and American protection are sister spirits. They show their kinship, when under the influence of the one the United States imitates the objects of the other. A false pride in the numbers covered by the flag of a nation, rather than in the common cause of human happiness,—of which Governments, in their various spheres, are properly but the ministers,—this is the essential motive of European militarism. It is this which keeps the women of Central Europe at the plough, while the men are absorbed in maintaining the burden of intolerable armaments.

Is not the same reactionary spirit shown when a great Government, on this Continent, seeks to draw a line of *industrial exclusion* between America and

Europe—when it sacrifices the industrial rights and interests of two neighbouring communities to a narrow and jealous trade policy:—to the desire to compel an universal adoption—if not of one flag, at least of an unnatural trade system, based on political rather than on industrial considerations?

American humour was at fault, when it invited the nations of the world to commemorate the discovery of America, under the ægis of the "McKinley Bill." The protective systems of Europe (like that of Canada) are but olive plants, arranged around that one mighty parent tree, which throws its shadow over the United States.

Such has been the example of America to Europe! Such, for almost a generation, has been the influence of the New World upon the Old. Should the storm

clouds that lower over Europe eventually crash together in the most awful of modern wars, will not some part of the guilt of that disaster to Humanity rest upon the head of the United States?

The chief grievance under which Newfoundlanders are becoming annually more restive is the French bounty system: the practice on the part of France of subsidizing her fishermen on the Banks, to the ruin of their native competitors. This is a legitimized abuse of the rights given to France by the Treaties. It is an injustice of the same nature as that to which (I have elsewhere pointed out*) the United States desires the Nova Scotian fishermen to submit Both foreign Governments claim for their subjects an equal right of fishing with the natives. Both make a very unjust return for this equal right. One

* Chapter II.

Government, by protective duties, gives its subjects an exclusive command of its own market. The other, by bounties, enables its fishermen to undersell all others in common markets. Both of these unjust arrangements are inspired by the same views of industrial policy, the same narrow mediæval spirit, which, largely through the example of the United States, now prevails even in the Western world.

The Empire, remaining united, is destined in the end to deliver a death-blow to this system, now so prevalent in the world. Bridging oceans and uniting continents, it will shatter forever all the dreams of isolation and exclusion.*

Is not the logic of events reinforcing Canada's appeal to Newfoundland to add the coping-stone to the work of North American Confederation, by uniting the

* Chapter III.

North American Colonies, from West to East, into one grand and logical whole; and thereafter joining with Canada, and let us hope with Australasia, in a general declaration of the unity of the Empire?

Newfoundlanders need not fear that French Canadian race sympathies will be found adverse to the interests of the Dominion in any just dealings with France. The inhabitants of Lower Canada are not so much French as they are *Canadians*. A section of the French people, separated in the Seventeenth Century, and already to a great extent abandoned, in the formative period of the previous century:—neglected by their mother country, and flung off at the last, like an unvalued jewel, they have grown to be a *people*, as distinct from that from which they sprang, as the New Englanders of the American Revolution were distinct from the English of the

Eighteenth Century. By long isolation, by religion and constitutional experience, they have become a distinct race. Hence, time will find them as united upon the integrity of Canadian interests against France as against every other foreign country. They will be as firm in resenting French abuses upon the coasts of Newfoundland, as if they were attempted on the coast of Gaspé.

A declaration of the unity of the Empire may, at this moment, produce a very marked result. When the lines of the British Empire are at last permanently settled, and its future destiny as a girdle around the world established, it will be something that one of the great uncertainties of policy will have been set at rest. The event will be a triumph of the principles which must ultimately work for a general international commercial peace.

The present action of Newfoundland imperils common interests. By abandoning her isolated position and temporarily waiving her local interests she will establish a claim upon the common gratitude. Newfoundland's rights to the complete freedom of her territory will become a first charge upon the diplomacy of the New Empire. The assertion of these rights, Newfoundlanders may be assured, if more timely and temperate, will be not less firm and imperative.

It is useless to negotiate with a country at a time when it inclines to desire war rather than peace: when it will concede nothing of its extremest pretensions to mere justice and equity, because it rather *cherishes* opportunities to quarrel, than desires to avoid them.

French Chauvinists now, perhaps, begin to recognize, with unconfessed despair,

that, unless a desperate effort is made at once, by any alliances, however uncivilized, by any means, however savage, the "lost Provinces" are lost indeed: that, slowly but certainly they are remerging into the Germany from which they were first torn, and to which, by race, language and religion, they naturally belong. Disappointment turns an acrid patriotism into fury. Mad with revengeful passion, it is ready to fasten upon the nearest hand.

France is furnishing a lurid illustration of the correctness of a diagnosis quietly recorded a quarter of a century ago by a philosophical observer, himself belonging to the French race, and writing in that language.

"Liberty," wrote Amiel in his famous *Journal*, "is not possible without free individuals. Liberty in the individual is

the fruit of a foregoing education. To preach liberalism to a population Jesuitized by education is to press the pleasures of dancing on a man who has lost a leg. How can the abdication of individual conscience lead to the government of individual consciences? Ultramontane Catholicism never emancipates its disciples, who are bound to admit, to believe, and to obey as they are told, because they are minors in perpetuity, and the clergy alone possess the law of right, the secret of justice, and the measure of truth."

Galled by the overstrained bit of Catholicism, a formidably large element in France has flung off altogether the reins of morality. Ungoverned passion is its law. In one direction a flood of Pander literature is its delight:—a vile reservoir that has overflowed its native

bounds, and now poisons once purer streams on every side. In the political world, Napoleon I. is still its ideal. Thus, the mood of this part of the French people is evil and dangerous.

To keep this undisciplined, impatient mass within bounds is the constant difficulty of French Governments. It threatens their stability. It menaces surrounding Europe. It is almost as near savagery as it was in 1793, when it burst upon surrounding Europe in an inundation of fire and blood.

At such a time the statesmanship of every country owes a duty to humanity. It is no fit moment for presenting irritating claims, however just. The situation resembles that which existed in the United States in 1871, in the presence of which Canada waived the Fenian claims. Diplomacy is once more obliged

to respect the difficulties of a Republican Government, dominated, for the time being, by a semi-civilized element.

Now let us consider what is the moral position of the Empire, at the time it is required to undertake a perilous task in the interest of a single Province? Does it supplement its comparative deficiencies as a military Power by the prestige of its ultimate prospects? With what authority does Great Britain, our mouthpiece, stand clothed before armed Europe? May she declare herself to be at the head of a vigorous, united, and expanding Empire, firmly bound to perpetual mutual constancy, and resolved upon a deliberate and consistent policy?

Or is not the following a truer picture of the facts? Newfoundland, at the moment she is pressing her high demands, is interlarding them with threats of as-

serting the right of secession from the Imperial Union. Canada, in her temporary agony under the torture-screw of a hostile tariff (applied by the United States, in the true mediæval spirit, to coerce her conscience or extort her wealth), impatient also under her own overstrained tariff (vexatiously administered and attended with rumours of corruption), has just barely escaped flinging her prosperity and independence—in all probability her portion in the future of the Empire—at the mercy of the honour and good faith of the United States. Australia, on the point of forming another great combination of Provinces, the foundation-stones of another new Nation, debates at the same moment whether the following step shall be towards consolidation with the Empire, or towards complete separation from it. And what of India? The loyalty of its Princes and

populations has been growing from year to year. It has been manifested on recent occasions with signal effect. But, even more than the loyalty of the Colonies, is it a loyalty of reason and expediency. How would it stand in the presence of a general disintegration? What must be the effect upon it of a universal desertion of Old England by the nations of England's own blood? Will not the first to step out shatter a magic circle? So precarious a thing, before the eyes of European statesmen, must our Imperial Union appear. These are the conditions the Empire presents, at the time it is being moved to press upon France the demands of Newfoundland for the revision of the Treaties of Paris and Utrecht and the rescission of the Treaty of Versailles!

Great unions cannot be effected without some mutual sacrifices. But is not the

occasion well worthy of sacrifices? Has not the time arrived when it has become a duty to strengthen the hands of the Empire? We stand at a critical juncture: at a crisis (I think it may be said without exaggeration) not only in the history of the Empire, but in the fate of Civilization. These young Nations may be serving *that* great cause, by intervening at this moment to confirm the prestige of our Empire.

Shall we wait through more idle and hesitating years, till suddenly a disastrous juncture arises for the Mother Country:—till a calamitous war, perhaps, has overwhelmed her prosperity and is putting her existence at stake? *Then shall the* Colonies fling their young fortunes into the gulf of her ruin? That would be romantic!

Or shall we evade such risks: not

declaring ourselves, until some golden moment, when the sun of England shines clear and securely, at a zenith of power and prosperity? May we hold ourselves ready either to desert or confirm our alliance, as circumstances may invite? This would be the opposite exteme. If one course might be Quixotic, would not the other policy be grovelling? Canadians, I believe, would blush to think of their country, deliberately preparing to become a *Vicar of Bray* among Nations.

The middle course is more consistent alike with honour and with reason. Let us make our election *now*. Let the great Colonies at once assume their place beside the Mother Country, at a time when the future is not free from uncertainties, nor wholly unclouded with perils; but when our very decision must

help, in some measure, towards a right solution, and may lead to a happy issue from all those possibilities, that menace interests more general than our own. Is not this the action which Wisdom would advise, and which our honour, and our duty to Humanity, seem to command?

Our choice of the right may not fail even of material rewards. The life blood of population, capital and enterprise, which has turned aside from the narrow and shifting courses of Colonial existence, may gladly pour into the straightened channel opened within an assured Imperial union.

England, tired of scattering her annual millions over half-civilized republics, will yet find vast openings (for certainly not more precarious investments) in the almost untouched development of Canada, Australasia and British Africa. At the present time a large proportion of England's

foreign investments are unprofitable. Were the worst to happen:—were an equal proportion of loss to result from Colonial investments, would it be no consolation to know that every sovereign not immediately returned with usury may indirectly have helped in establishing some son of England in a more prosperous home without deserting his native flag, or adding to the force of nations whose policies are hostile to the prosperity of the Motherland, and to the cultivation of benevolence between nations?

If in 1892 the New Empire, securely launched upon the duties of another age, is able to celebrate the crisis of its history successfully passed, I believe that the sister Republic will not stand jealously aloof. It will rather join in the rejoicings of its kindred Union, over the consummation of the work of a century. It will recognise the final ripening of greater

destinies, that Time has had still longer in preparation.

May not an impulse be communicated to the whole current of English life? Shall Europe witness a revival of the spirit of Elizabethan England, that has not been dead, but sleeping? Shall the united people of the New Empire spring like a young Lion from its slumbers: shaking off the follies of its idleness, the vermin-brood of scandals and infamies that have preyed upon its immobility? May an enlightened Enthusisam of Patriotism become an inspiration to conduct. May insincere ambitions of politics, defilements of literature, debasements of the stage, all be expelled, like diseases by the reviving vigour of the blood.

THE END.

APPENDIX

ON FOREIGN RELATIONS—THE EASTERN QUESTION—THE JOINT INTEREST OF THE EMPIRE AND THE REPUBLIC THEREIN.

APPENDIX.

AMERICA'S INTEREST IN MODERN IMPERIAL POLICY.

The volcano cloud which continues to loom over the Continent of Europe threatens the peace of the world. Secure peace will never be, until the fate of the realm surrounding Constantinople, not only in Europe but in Asia, has been finally determined. France will not cease to be uneasy until the East is at rest. Her people, at least during the present generation, will not surrender their hopes of re-conquering the "lost provinces," until the prospect—in their case, the misanthropic hope, of a general European war has ceased to be imminent. Not until then can the wearied nations of Europe lay down for a moment the desperate burden of their armaments.

The Monroe doctrine was a provisional, not a final, statement of the policy of the great and growing nation over which Mr. Monroe at that time presided. Later commentators have tended to somewhat exaggerate the operation of the original text. They treat it as a fixed truth, involving the truth of its converse. America, claiming her own continent for native (and, as far as possible, Republican) Governments, it seems to be thought, must, to be consistent, leave the policy of Europe altogether to European Governments. But it is absurd to expect that any nation can so isolate itself in modern times. Will the greatest nation in the world for ever be content to exercise no influence upon the cause of freedom and the progress of the world's civilization, beyond certain arbitrary geographical boundary lines? In modern times distances, for many purposes, have been nearly abolished. At the

same time the interests of freedom and justice have become more and more common interests, and must refuse to acknowledge any such limitation as this converse Monroe doctrine would impose. The great Republic cannot be treated like a horse working "in blinders," allowed to look to what is before it, to North and to South, but to be unconscious of every object to East or to West.

England's former supposed interest in guarding the Mediterranean, as the approach to India, has been much lessened, since Russia, by her absorptions of Asiatic territory after territory, and her accompanying railway progress, has become practically conterminus with India by land. The interest which remains to England is connected with the destiny of the young Christian States carved out of the Turkish Empire. It has become far more a moral than a political interest. It

cannot be said any longer to be purely, even chiefly, selfish. Dating from the Treaty of Berlin—a memorable convention, whether we see in it the fruits of statesmanlike genius, or the accidental results of time serving diplomacy—a change has come over the whole aspect of Eastern Europe. The treaty planted there those young Slave nationalities, which have since shown so much tenacity of existence and spirit of internal progress. Servia and Roumania consolidated their independence; Bulgaria commenced her existence. The seed, that seemed at the time to be the smallest and most unpromising ever planted, has germinated vigorously, and become a tree that overshadows the whole region of the East with new complications. The Eastern Question has entered upon a new phase. It has become an utterly different question, arousing new hopes and appealing to new

sympathies. The maintaining in existence a corrupt Oriental Power within the borders of Europe, a crumbling ruin, propped by the counteracting jealousies of its great neighbours, is no longer the sole prospect before conservative statesmen. Their interest is concentrated from day to day in the fate of the young nationalities developed in the former Danubian provinces. It is the rights and future of these populations that are now in question. After establishing their right to independence and their capacity for free government, shall they be suffered to be crushed out and absorbed, whether into one, or into the other, of the two military and absolutist, or semi-absolutist, nations adjoining them? This is the question that now presents itself to all Western statesmen.

Can this issue, which appeals to the great and ancient Liberal party of Eng-

land, this new policy which has arrayed Liberals and Tories on the same side, be wholly foreign to the United States? In the great cause of free government and of peaceful civilization has England a greater moral interest than America?

The possibility that out of the Turkish provinces—those already established in independence and those yet to be emancipated—a new free nation may be created, destined to maintain its own government and independence, has arisen as an unexpected vision before the eyes of Western Europe.

The question is, whether that hopeful germ of free institutions shall prevail, and the independence of nations be respected; or whether the civil and political rights of these vigorous young peoples shall, without external protest or resistance, be deliberately overborne by violence; having first been sufficiently

undermined, by the worse processes of incessant corruption, that are now being steadily directed upon their governments, armies and peoples: (an imitation of the revolting process by which the anaconda prepares his prey for mastication). If that is the question which interests English Liberals, are not the United States interested also?

If it be possible, by any course of policy (not involving direct interference) to remove the great temptation which the unbefriended weakness of the Eastern nations has so long offered to the corrupting methods and the threatened violence of Panslavist advocates of manifest destiny, are the United States freed, by the mere distance of the Atlantic, from the duty of lending such moral aid, if it be in their power?

It is not improbable that the Russian

Government itself is less anxious for the possession of the Danubian provinces and the Bosphorus than it was, before the Treaty of Berlin had developed its full consequences.

The Treaty of Berlin has produced certain results which cannot be undone. The vigorous young Slavic peoples have tasted of freedom; and they have shown themselves capable of appreciating and ready to defend it. How can such communities be assimilated into the autocratic system of Russia? The Czar cannot be anxious to undertake, in the presence of indignant Europe, the task of violently suppressing those beginnings of freedom. He cannot wish to acquire another Poland. But how, on the other hand, could elective Parliaments, free speech, a free press, and trial by jury be allowed to continue to flourish conspicuously in one corner of his dominions, while Siberia is the lot of those

who propose the least approach to the same institutions, in any other part of Russia? Is it not probable that the contemplation of this perplexing consequence has been more influential even than the dread of a general European war in holding back Russia's impending spring upon the carcass of Turkey?

The Treaty of Berlin and its consequences have not yet settled the Eastern problem. They have, perhaps, only made the case of the "sick man" more acute. The emancipation of Bulgaria opens the ears of Europe to the deeper groans of Armenia. Asia Minor exhibits on a vaster, though more obscure stage, the wrongs and miseries which led to the liberation of Bulgaria.

Perhaps the hand of Russian intrigue may be suspected in the ineffectual revolts, which aggravate Armenian misery, while

they make it conspicuous. But the outrageous acquittal of such a monster as Moussa Bey, and the revelations at his trial, give a dreadful glimpse into what is going on in Armenia.* History is, unhappily, too overflowing with such tales to allow us to doubt that the condition of a Christian people subject to the regime of oppression, violence and corruption, which in Turkey is called government, must be one of intolerable misery and wrong. The substitution, for that criminal anarchy, of a just and orderly government would be a relief to the sympathies of humanity only to be equalled by the suppression of the slave-trade in Africa. Africa has been called "the open sore of the world." Is not Asiatic Turkey hardly less deserving of the name?

Civilized Europe cannot calmly contem-

*Report of the British Minister in Constantinople, 1890.

plate the prospect of a perpetual continuance of the misery and wrong which seems destined to be the constant condition of the Turkish Empire, and of which an aggravated portion falls upon the subject Christian populations. Under Turkish rule those evils must go on from bad to worse. Reform from above is not to be looked for.

What hope of relief is there, then, from a desperate outlook? Europe, I believe, cannot fold her hands in the presence of this terrible dilemma. The fairest region of the earth cannot be resigned to be a scene of perpetual outrage and misery. If other nations avert their eyes and stop their ears, the Russian people will not.

Revolt of the subject populations presents no very hopeful prospect. If they were successful, they would be too feeble

to protect themselves, as independent States. Their weakness would be a continual invitation to neighbouring intrigue and aggression. Their position would still invoke the jealous guardianship of the Powers: and the Eastern volcano would never cease to send up its warning smoke.

A Federal Union might assure greater outward strength, if it promised to be attended with inward cohesion. But for a federal union, under free governments, no one is bold enough to say that the Turkish Provinces, European or Asiatic, are ripe. Their racial jealousies, their religious animosities, their intellectual and moral backwardness, obviously unfit them for a destiny requiring to be worked out with the purest patriotism and the utmost mutual forbearance.

Can help be expected from without? From Austria there might be some hope.

But Austria will never be allowed to add those rich and promising territories to her own, except as the victor in the most general and awful war of the century. Absorption by Russia, which could only be effected at the same price, is no destiny to be desired, for a liberated people. It would only pile higher that threatening structure of belated despotism, destined some day to fall, perhaps both inwards and outwards, with a more resounding and destructive crash than that of the French Revolution.

The remedy which any one of the onlooking Continental nations would favour is denied by all the others. But one remedy remains: one which is not perfectly to the taste of any of the Continental nations, but the only one which is not altogether impossible, and one which has some promise of being effectual.

The example of Bulgaria has shewn that the Christian races of the East possess the first virtue of a free people—courage. The bough, so long bent to the ground under Turkish slavery, recovered itself with a spring that astonished Europe. But for success in free government, more than courage is needed. The spirit of justice and the spirit of equality are the pillars of Freedom, and they are habits of mind that can only be acquired by education and practice. Without them the experiment of representative government would be an alternation of mutual oppressions, a scene of unabashed corruption, that would repeat the history of the racial struggle in the Southern States during the carpet-bag period, and of the destructive restlessness of the South American Republics. In Turkey the confusion would be aggravated by a third element, wanting in previous examples

—an embittered conflict of sects and religions.

It would be mere optimism to look for honest administration, moderate legislation, or impartial justice from such conditions. Education is required: an education of not less than a generation: the least period in which (experience shows) new institutions can be expected to take root in a young people. Such was the experience of Protestantism under Elizabeth; of German union under Bismarck; of Southern reconstruction in the United States; of Confederation in Canada.

Such an education can only be procured under the hand of a master. The reins of power in the young Union of the East must be held for not less than twenty years under the guardianship of a Power chosen by the consent of Europe.

Europe, by the Treaty of Berlin,

assumed the protectorate of the subject populations. How shall the protectorate be made effectual? Joint occupation is impossible; sub-division a too dangerous discussion to enter upon. A Power to be selected for the trust must be a distant Power, not entangled by local alliances or to be tempted by territorial acquisitiveness. Mutual distrust on this score will exclude any neighboring nation, like Russia or Austria. Fitted for the task by experience and sympathy with the ways of freedom, by proved capacity for financial administration, for constructive energy and judicial impartiality, it must be a great Power, not liable to be made the tool of foreign influence. Independence, impartiality, and disinterestedness must be the conditions of the Protectorate.

Where, then, shall we look for a nation which answers all the conditions? Where, in all the world, are we more likely to find

it than in that insular empire which has already, under the Cyprus Convention, special covenant rights to supervise the administration of Asiatic Turkey? Herself the first and one of the greatest of free nations, England's peculiar fitness for the very task has been tried in other fields Her honest, able, and impartial administration has won the respect—almost the loyalty—of the sects and races of India, and the gratitude of the down-trodden fellahs of Egypt.

England, and England alone, is fitted to become, by consent of Europe, the protector and educator of a young confederation in the East. Her Civil Service is the best, her financial administration the most successful, and her judiciary is, if not the ablest, the best educated and the most uncorrupt in the world. England teems with material for the administration of regions less fortunate in the race of

civilization than herself. She has wealth to enable her to become the banker of the young Republic. She could guarantee protection, justice, and equality of taxation to a Moslem minority in the Christian provinces. She has the means of purchasing the consent of the Porte, by pensioning off the greedy, sensual, and villainous ring which stands for the Government of Turkey :—that cruel Octopus, whose devouring mouth is in Constantinople, while its paralyzing arms are extended East and West over the fairest regions of Europe and Asia. As in the case of Cyprus, England might venture to guarantee a tribute equal to that now wrung from the provinces. With the increase of prosperity under her care, the tribute would be a constantly lightening load.

But, it is said, the hands of England are tied. She dare not intervene as a

reformer, because of the sensitiveness of her own vast number of Mohammedan subjects in India. But no serious shock will be given to the Mohammedan world so long as its religious head remains in possession of Constantinople. The Head of a religion has need of independence, but not of empire. He requires a city, not provinces. The desire of Ultramontanism would be accomplished if the Pope were reinstated as Master of Rome. The Sultan's position, with his seat in Constantinople, would be very similar. That seat of a Sultan's pleasures secured, and the revenue to support a luxurious existence guaranted by a thrifty administrator, the Porte might well consent to surrender its present precarious privilege, of extorting a revenue from the misery and desolation of what might be the most fruitful and delightful region of the world. Certainly no guarantee would be more

likely to content it than that of the Power which is already the greatest of Mohammedan rulers.

May it thus be the fate of Ottoman rule to retrace the history of the empire which it conquered. Step by step its dominion may be narrowed; province after province, now in allegiance, may slip from its grasp: until the descendant of the Caliphs, like the last of the Christian Emperors, looks from the ramparts of Constantinople upon a region, of which his weak hand no longer rules an acre.

But what of Russia? it will be asked. The Russian Czar, if not the Russian people, might be found to regard this strange project with more equanimity than might be expected. He has been convinced that Constantinople, or its territories, as a territorial speculation, are only to be gained at a terrible cost. Some

popular jealousy might be excited among Russian Anglophobists. But it must, of necessity, be far less acute than the impatience of Turkish cruelties. Russian ears would no longer be pierced by the heart-rending cries of their Christian kindred, agonising under Turkish misrule. To arrive at this end without the terrible cost of a European war would be gain indeed. Not only in a sentimental direction would Russia participate in the great gain that would immediately accrue from a pacific reorganization of the Ottoman Empire. Russian trade, too, though it would not be able to absorb Armenia within the monopolizing range of its protective system, would receive a great and positive impulse from the opening of a vast neighboring region to peaceful development and commerce. How could the adjoining countries fail to feel the impulse? Russia's salt mines, her oil wells,

and her forests would become the scenes of increased activity, with the rapid growth of population over the border. For into this inviting field there would soon be pouring the industry of the Continent, the capital of England, and the enterprise of America.

Russia's more restless spirits would there find, in active development, a natural outlet for their energies, which in the unbalanced conditions of their own country only lead to congestion and fever. There they would find a training-field where, in course of time, they would learn moderation and acquire experience, and become fitted to give real assistance in the problem of leading Russia herself into the pathway of reform, without falling into the pitfall of revolution.

Let us for a moment indulge the dream this prospect opens up. The cradle of

Greek art and letters, the birthplace of her noblest poetry, would be rescued from the paralyzing reign of the Koran. The lands which have been hallowed by footsteps that Civilization still follows would be redeemed from the vilest and cruelest misgovernment to be seen in modern times. The object of the Crusades would be peacefully accomplished. Ancient cities would be restored; the highways of history would once more be reopened, with all the aids of modern science; and one of the richest granaries of the Roman Empire would once more pour forth its abundance. A new generation would grow up in a peaceful, populous and happy land, aware only by tradition of its former hopelessness and desolation. Are not these objects for which English and American statesmanship might well work side by side; and, in a labor equally congenial to both, close the chap-

ter of ancient animosities and jealousies? Is Europe bound to perceive forever, when it turns its eyes Eastward, the same dread pictures which surrounded Rome in the century before Christ? Though centuries have passed, though races have shifted, yet the ancient scenes witness the same dreadful action.

> Acer et Mauri peditis cruentum
> Voltus in hostem.

What, then, stands in the way of a consummation which all lovers of humanity and friends of freedom must earnestly long for? What paralyzes the action of England, and, through her, of Europe? What more, perhaps, than the United States? As long as their great parties continue to keep alive groundless animosities towards Great Britain, because they promise to serve passing party ends, so long will America's attitude of reserve be interpreted as one of potential hostility.

With its only natural ally preserving a threatening aspect on the flank of the Empire, its prestige in Europe is crippled; and the only arm that might save the suffering populations of the East is fatally hindered. To reverse this position requires no making of new treaties; no new alliances, or offensive and defensive obligations; only a few further steps towards fulfilling, in spirit, that Treaty of perpetual peace, which was the beginning of the great Republic, and was the preparation for this new Empire.

If this is not improbable: if the same institutions which would establish that "perpetual peace" between the nations of English speech, which formed part of the great design of the framers of the treaty of 1783, might advance the prospect for universal peace between the nations of the world: if a glorious opportunity of pres-

sing to a solution the great crux of modern Europe, while creating a new opening in the East for English administrative talent and American industrial enterprise, offers itself, will an American statesman be unwilling to grasp it? Will he not desire to win the gratitude of European millions, relieved at last from the shadow of war, that haunting dread of years; or to earn the blessing of happy faces yet unborn, peopling a rescued and emancipated land? Or will he still prefer the plaudits of Irish audiences, flattered into untimely hatred of a friendly people, struggling with problems, that avenging time will infallibly bring home to America?*

Digitized with financial assistance from
Shri Brihad Bhartiya Samaj
on 31 October, 2019